

Atlantic City Bars found in the NJ Alcohol Beverage Control (ABC) *Bulletin* from the 1930s to the 1970s.

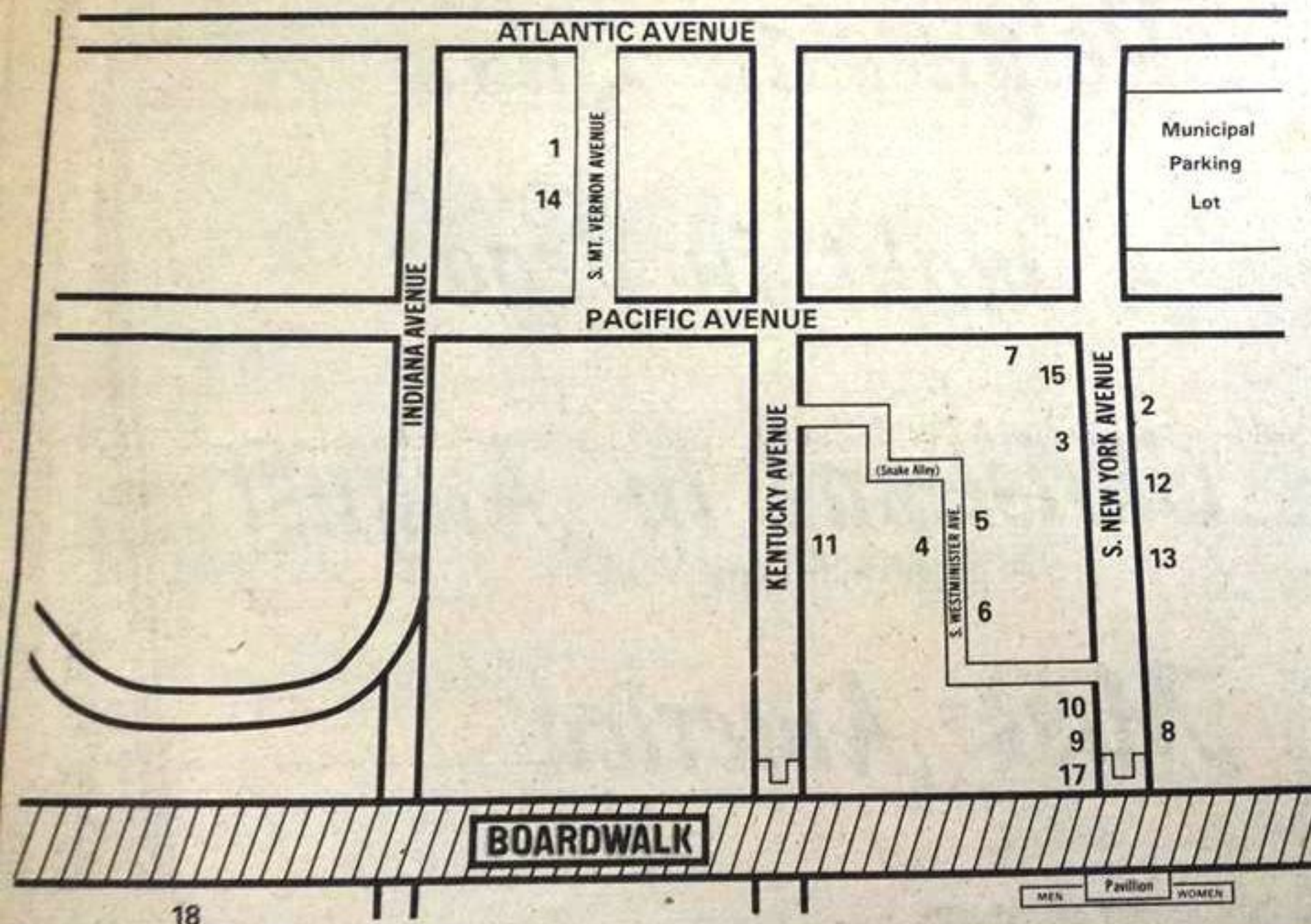
by Brian A. Smith, D.C.

The bars with an asterix are those in locations that still stand. The ABC proceedings are in chronological order.

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*1960	Midtown Bar & Café	1719 Pacific Ave	btw Indiana & MLK (Illinois)	29
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*1969	Paddock Inn	1643 Atlantic Ave	nr Illinois <i>Vive les Boys</i>	95
*1970	Ceil's Saratoga	203-5 S New York Ave		101

In one ABC proceeding, the give the name of the drag performers group for three venues: Fort Pitt had the *Jewel Box Revue* (which was actually reviewed in 1976 in the magazine *Drag*; *The Fantastiks* played at Friendship House, and *Vive les Boys* played at Ceil's Saratoga.

In random order, meet gay Atlantic City



- 1 Brass Rail Bar and Beer Garden, 12 S. Mt. Vernon Avenue. Mostly local people, off-beat bar, low prices, outside Beer Garden, draft beer, fireplace.
- 2 Rendezvous Bar, 137 S. New York Avenue. Known for its great parties, shows, and cruising.
- 3 Chester Lounge, 132 S. New York Avenue. Entrance on side, bar under Chester Inn, modern design, stainless steel dance floor, lights, hotel accommodations, swimming pool.
- 4 M & M Lounge, S. Westminister Avenue (Snake Alley). Two large bars, large disco dance floor, also hotel accommodations.
- 5 Kappa-Gamma-Phi Fraternity House, 159 S. Westminister Avenue. Private, members only.
- 6 Louise's, 169 S. Westminister Avenue, also known as "Entertainer's Club," nice intimate lounge with table service.
- 7 Club Baths, on Pacific near S. New York Avenue, in Grand Hotel. A welcome addition to A.C.'s gay scene.
- 8 Chez Disco, 245 S. New York Avenue, two bars downstairs, large dance floor, upstairs large disco, great sound system.
- 9 Lark Inn, 174 S. New York Avenue. Two old-fashioned bars with barrels of peanuts and popcorn, large frozen mugs of draft beer, great after the beach.
- 10 Dee's Sub Shop, All the name implies, next to Lark Inn on New York Avenue.
- 11 DeVille, on Kentucky Avenue. Houses the M&M disco and a sauna.
- 12 Spruce House, S. New York Avenue near Rendezvous, hotel.
- 13 Cecil Saratoga, S. New York Avenue, bar, occasional shows.
- 14 Top Of The Rail, 12 S. Mt. Vernon Avenue. Women's bar at the same address as the Brass Rail.
- 15 Lyle's Place, 120 S. New York Avenue, no liquor, 7-30am-4pm, breakfast and lunch.
- 16 Ocean House, 127 S. Ocean Avenue (not on map). Guest house open all year, rooms and apartments, May-Sept. office open 9am-12am.
- 17 Ramrod, 174 1/2 S. New York Avenue. Western/leather bar, back of Lark Inn, pool table.
- 18 Atlantic City's Best Beach—find it here, directly in front of the Grand Hotel near Indiana Avenue.

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 1088

NOVEMBER 22, 1955.

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Proper liquor control dictates that an issuing authority should be free, within the confines of sound discretion, to determine the fitness of a person to hold a license and where, as here, the record substantially supports applicant's fitness, it cannot be said that the issuing authority has abused that discretion. Cf. Burgard and Condon v. Totowa, Bulletin 900, Item 5.

The burden of establishing that respondent's action was erroneous and should be reversed rests with appellants (Rule 6 of State Regulations No. 15). Having carefully considered all the facts and circumstances of the case, including oral arguments before me of counsel for the respective parties herein, I find that appellants have failed to sustain that burden. The action of respondent Board will be affirmed.

Accordingly, it is, on this 24th day of October, 1955,

ORDERED that the action of respondent Board be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(FEMALE IMPERSONATORS, INDECENT FIGURINE) - ALLOWING PREMISES
TO BE CONDUCTED AS A NUISANCE - LICENSE SUSPENDED FOR 190 DAYS.

In the Matter of Disciplinary)
Proceedings against)

LOUISE G. MACK)
T/a ENTERTAINER'S CLUB)
169 Westminster Avenue)
Atlantic City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-14, issued by the)
Board of Commissioners of the City)
of Atlantic City.)

McAllister & Hunter, Esqs., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The following charges were preferred against defendant:

"1. On June 3, 18, 21, 22, 24, 25, 29 and 30, 1955 you allowed, permitted and suffered female impersonators in and upon your licensed premises; in violation of Rule 4 of State Regulations No. 20.

"2. On all the occasions aforesaid, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance in that you permitted persons who appeared to be homosexuals to congregate on your licensed premises and to engage and participate in foul, filthy and obscene language and conduct and to mingle with, solicit and make overtures for and arrangements with patrons for acts of perverted sexual relations and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20.

"3. On June 30, 1955 and prior thereto you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing an obscene, indecent, filthy, lewd, lascivious and disgusting representation, viz., a certain rubber figure known as 'Bubbling Boy'; in violation of Rule 17 of State Regulations No. 20."

Defendant pleaded not guilty to said charges and on September 13, 1955 a hearing was held thereon. In view of the fact that the matter was not completed on said date, it was continued to October 27, 1955.

A letter dated October 24, 1955 from defendant's attorneys, and received at this Division on October 25, 1955, represented that defendant requested permission to withdraw her plea of not guilty heretofore entered and that in place thereof a plea of non vult be entered to said charges. I shall allow such change of plea to be entered herein.

The file herein discloses that several ABC agents visited defendant's licensed premises on the various dates set forth in the charges preferred herein. All of the visits were in the evening, sometimes extending into the early morning of the following day, with the exception of one visit made on June 18, 1955 when the agents entered defendant's premises at 12:01 a.m. It would serve no useful purpose to recite in detail all of the sordid facts and circumstances contained in the agents' reports. I shall, however, mention the significant events and conduct occurring on the visits in question.

The agents visited the defendant's licensed premises for the first time on June 3rd and during their stay observed that practically all of the male patrons, who numbered 50 at one time, although dressed generally in male attire, deported themselves in a feminine manner by swaying their hips while walking and speaking in high-pitched voices. The defendant discussed "gay boys" with the agents and related how a well-known actress was arrested at one time with a number of such "boys." The agents and the male bartender engaged in conversation about "gay boys" and the bartender told them he could obtain some for them in a house which catered to such males and that "straights" (normal males) were not welcome in defendant's licensed premises.

The agents again visited the defendant's premises on June 18th and during that evening about 80 male patrons with feminine characteristics and speaking in high-pitched voices patronized the establishment. Several of these males wore tight-fitting dungarees and swayed their hips as they walked. Some of the male patrons, during the playing of the juke box, shook the lower parts of their bodies in time with the music. Loud comments from observers were heard, such as, "Isn't she just the sexiest thing" and "I wouldn't mind being married to someone who could move like that." One male sat on the lap of his male companion and began to kiss him and when the defendant saw this she remarked "I don't think that's necessary. I told them before not to be kissing like that in public." Many pairs of males walked about the premises holding hands and on occasion were heard to make such remarks to one another as "silly girl" and refer to others as "she" or "doll."

The agents again entered defendant's premises on June 21st and during the evening observed conduct similar to that observed on their prior visits and, in addition thereto, heard two males discussing the different ways to engage in homosexual love-making.

On the June 24th visit by the agents, they observed at the height of activity that there were about 60 male patrons in

the premises similar to those seen on previous occasions. Some time after the agents arrived, a male called Johnny engaged one of the agents in conversation and asked the agent whether he was "going steady" with his fellow agent, and, thereafter, when the agent signified his intention of leaving the premises with the other agent, Johnny said he was disappointed that he was not going with him.

When the agents returned to defendant's premises on June 29th, there were approximately 50 males in the place. A short time after they entered, a male called Danny, wearing tight-fitting slacks and female ballerina slippers, and walking in a feminine manner, approached one of the agents and said the latter "looked just like a doll." He requested that the agent buy a drink for him and while awaiting the service thereof, the male became unduly familiar with the agent. Danny took a pair of false eyelashes from a plastic box and, after putting them on, asked the agent if they did not make his look "sexy." He then took these off and handed them to the defendant. Another male called "Phil," who acted in a very affectionate manner toward Danny, told Danny that he was going to bed with him that night, reminding him that "after all we are going steady." Another male called "Herb" came over to one of the agents and maneuvered his body between the agent's legs and put his arm around him and at one time kissed the agent on the neck. Herb then invited the agent to go to his home with him, saying that he had a comfortable bed and that on the following day both could meet friends on the beach. While Herb went to the men's room, the agent told his fellow agent about the invitation extended by Herb and, in response to their inquiry of the bartender and the defendant concerning Herb, both indicated Herb was all right.

When at 3:00 a.m. on June 30th, the agents made known their identity to the licensee and her employees, all refused to give any statements in the matter.

During a search of the premises a rubber figurine, which could be manipulated to emulate a call of nature, was found on the back bar.

The offenses above enumerated are major violations of the Rules and Regulations of the Division of Alcoholic Beverage Control upon which the charges herein are brought. As was said in Re Kaczka et al., Bulletin 1063, Item 1:

" * * * * it is clear that homosexuals may well have a harmful effect on some members of the public. Furthermore, where they congregate and conduct themselves in the manner hereinbefore related, they are a threat to the safety and morals of the public.. * * * "

It appears from the evidence in the instant case that the defendant not only knew that her establishment was patronized by homosexuals, but that she encouraged and catered to them to the exclusion of other patrons. Considering the number and type of violations which took place on her licensed premises during the course of the investigation in question with reference to Charges (1) and (2), a 180-day suspension of the defendant's license is warranted. Re Bader, Bulletin 1073, Item 4. An additional 10-day suspension of defendant's license on Charge (3) will be imposed because of the violation set forth therein. Re Jackson, Bulletin 1023, Item 2. This makes a total suspension of defendant's license for a period of 190 days.

Accordingly, it is, on this 2nd day of November, 1955,

ORDERED that Plenary Retail Consumption License C-14, issued by the Board of Commissioners of the City of Atlantic City to Louise G. Mack, t/a Entertainer's Club, 169 Westminster Avenue, Atlantic City, be and the same is hereby suspended for a period of one hundred ninety (190) days, commencing at 7:00 a.m. November 14, 1955, and terminating at 7:00 a.m. May 22, 1956.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(PERMITTING MAKING ARRANGEMENTS ON LICENSED PREMISES TO RENT
ROOMS FOR ILLICIT SEXUAL INTERCOURSE) - MITIGATING CIRCUMSTANCES -
LICENSE SUSPENDED FOR 120 DAYS.

In the Matter of Disciplinary)
Proceedings against)

TARQUINIO ROSSINI)
19 Union Square)
Phillipsburg, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-19 for the 1954-55)
and 1955-56 licensing years, issued)
by the Board of Commissioners of the)
Town of Phillipsburg.)

Joseph V. De Masi, Esq. and Sidney Simandl, Esq., Attorneys
for Defendant-licensee.

Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded non vult to the following
charge:

"On June 4 and 8, 1955, you allowed, permitted and
suffered lewdness and immoral activity in and upon your
licensed premises, viz., the making of arrangements for
the renting and the renting of rooms for the purpose of
illicit sexual intercourse; in violation of Rule 5 of
State Regulations No. 20."

The file herein discloses that on the night of June 4,
1955, three ABC agents visited defendant's licensed premises
wherein they observed a sign reading "Rooms for Rent." At about
11:20 p.m. they engaged the bartender named Paul in conversation
respecting the type of rooms available and the rental therefor
and told him, in the vernacular, that they proposed to have mere-
tricious relations with some married women from a nearby city.
Meanwhile, one of the agents pretended to phone the women and
thereafter told Paul and the other agents that the "girls" would
call back within ten minutes. In response to the agents'
inquiries, Paul assured them that luggage was not essential;
that they could sign "whatever you want" in the register; and,
to assuage their seeming concern for the womens' anonymity, told
them the "girls" could be brought, unobserved, through the lobby
to the rooms. After fifteen minutes had elapsed and the phone
call was not received, the agents departed after instructing Paul
what to do in the event the "girls" should later phone.

On the night of June 8, 1955, the aforesaid agents again
visited defendant's licensed premises and after greeting Paul,
asked him if any rooms were available. When informed that they

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

June 4, 1963

BULLETIN 1515

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

June 4, 1963

BULLETIN 1515

1. DISCIPLINARY PROCEEDINGS - NUISANCE (APPARENT HOMOSEXUALS) -
PRIOR SIMILAR RECORD OF LICENSEE AND PREDECESSOR IN INTEREST -
LICENSE SUSPENDED FOR 240 DAYS.

In the Matter of Disciplinary
Proceedings against

ELCOR, INC.
t/a ENTERTAINER'S CLUB
169 S. Westminster Avenue
Atlantic City, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-28, issued by the Board
of Commissioners of the City of
Atlantic City.

Albert J. Perrella, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge as follows:

"On August 18, 25 and 26, 1962, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., males impersonating females, in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

Reports of investigation disclose that on August 18 there were approximately sixty patrons present and on August 25-26 approximately ninety, and on each occasion approximately 95% were apparent male homosexuals. In addition, one of the bartenders (a 12% stockholder of the corporation) also appeared to be a homosexual. Also present on both occasions in an apparent managerial capacity was Louise G. Mack who, according to the application for license, is the holder of 75% of the corporate stock stated to be held as collateral.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days, effective September 10, 1962, for similar violation. In addition, its predecessor in interest, Louise G. Mack, from whom the license was transferred, has a record of three suspensions of license for similar violation, viz., (1) by the Director for one hundred ninety days, effective November 14, 1955 (Re Mack, Bulletin 1088, Item 2), and by the municipal issuing authority for (2) ten days,

effective June 24, 1960, and (3) sixty days, effective September 5, 1961.

The current minimum suspension for a first offense of permitting the simple congregation of a relatively large number of apparent homosexuals, with no evidence of overt acts or immoral activity, the situation here, is sixty days. Re Ashen, Bulletin 1495, Item 7. However, considering the prior record of the licensee and its predecessor in interest, to whom it is linked by the continued stockholding of Louise G. Mack (cf. Re Pastrana's Bar, Inc., Bulletin 1505, Item 5) and its apparent employment of her (cf. Re Taccetta, Bulletin 1485, Item 2), of four prior similar violations and the repetitive nature thereof (this being the fourth similar within five years), as well as the plea entered, under all of the circumstances the license will be suspended for two hundred forty days, with admonition to the licensee that future similar violation may well result in outright revocation of the license.

Accordingly, it is, on this 1st day of May, 1963,

ORDERED that Plenary Retail Consumption License C-28, issued by the Board of Commissioners of the City of Atlantic City to Elcor, Inc., t/a Entertainer's Club, for premises 169 S. Westminster Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1963, commencing at 7:00 a.m. Wednesday, May 8, 1963; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7:00 a.m. Friday, January 3, 1964.

EMERSON A. TSCHUPP
ACTING DIRECTOR



STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1145

JANUARY 7, 1957.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1145

JANUARY 7, 1957.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(FEMALE IMPERSONATORS) - LICENSE SUSPENDED FOR 100 DAYS.

In the Matter of Disciplinary
Proceedings against

LOUIS FELDMAN
T/a NEW TORCH CLUB
1317 Memorial Ave. & 28 Hahn Ave.
Atlantic City, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-108, issued by the Board
of Commissioners of the City of
Atlantic City.

Paul M. Salsburg, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On July 28 and 29, 1956, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered female impersonators and persons who appeared to be homosexuals in and upon your licensed premises; allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises; and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that ABC agents visited defendant's licensed premises on the early morning of July 28 and July 29, 1956, and on each visit remained in the premises for several hours.

On the morning of July 28, 1956, the agents observed between ninety and one hundred male and three female patrons in the premises. The agents report that practically all of the male patrons (99%) talked and acted like "fags" as they were observed hugging and kissing one another and performing other suggestive acts repugnant to common decency. Although two male bartenders were on duty at the time, neither they nor a female who appeared to act in a managerial capacity did anything to stop the sordid exhibition.

On the morning of July 29, 1956, the agents again visited the said premises and found the same conditions existing as had taken place on their visit on the previous day. On this occasion there were approximately one hundred males present, all of whom appeared to be homosexuals. On both mornings the "fags" wore male attire.

Defendant has no prior adjudicated record. In attempted mitigation of penalty defendant's attorney contends that the defendant had no knowledge of the fact that such conduct took place as he has another business which prevents him from being

in regular and constant attendance in the licensed premises. The licensee's lack of knowledge cannot be excused, particularly where, as here, he absents himself from the licensed premises and for appreciable periods of time leaves the management of the licensed premises to another, thus substantially abandoning supervision over the licensed premises; nor can such lack of knowledge save him from the full impact of the merited penalty. I suggest, if the licensee values his license privileges, that he personally devote requisite time to the supervision and operation of his premises.

Under the circumstances appearing herein, I shall suspend defendant's license for a period of one hundred days (cf. Re Lloyd, Bulletin 1045, Item 7).

Accordingly, it is, on this 31st day of October, 1956,

ORDERED that Plenary Retail Consumption License C-108, issued by the Board of Commissioners of the City of Atlantic City to Louis Feldman, t/a New Torch Club, 1317 Memorial Ave. & 28 Hahn Ave., Atlantic City, be and the same is hereby suspended for a period of one hundred (100) days, commencing at 7:00 a.m. November 5, 1956, and terminating at 7:00 a.m. February 13, 1957.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - ALLOWING OBSCENE LANGUAGE AND CONDUCT ON LICENSED PREMISES - SALES TO MINORS - SALE TO INTOXICATED PERSONS - UNQUALIFIED EMPLOYEE - LICENSE SUSPENDED FOR 90 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

DOROTHY MOSCATO
T/a GRAND ALLEYS
1304 - 5th Street
North Bergen, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-33, issued by the
Alcoholic Beverage Control Board
of the Township of North Bergen.

Irving I. Vogelmann, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On July 11, 13, 14 and August 16, 1956, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that on July 11, 13 and 14, 1956 you allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene language and conduct and unnecessary noise in and upon your licensed premises and had in your possession matter containing an indecent, filthy, lewd, lascivious and disgusting representation, viz., a certain rubber-like figure known as the 'Mermaid'; in that on August 16, 1956, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing an indecent, filthy, lewd, lascivious and disgusting

THE NEW TORCH CLUB

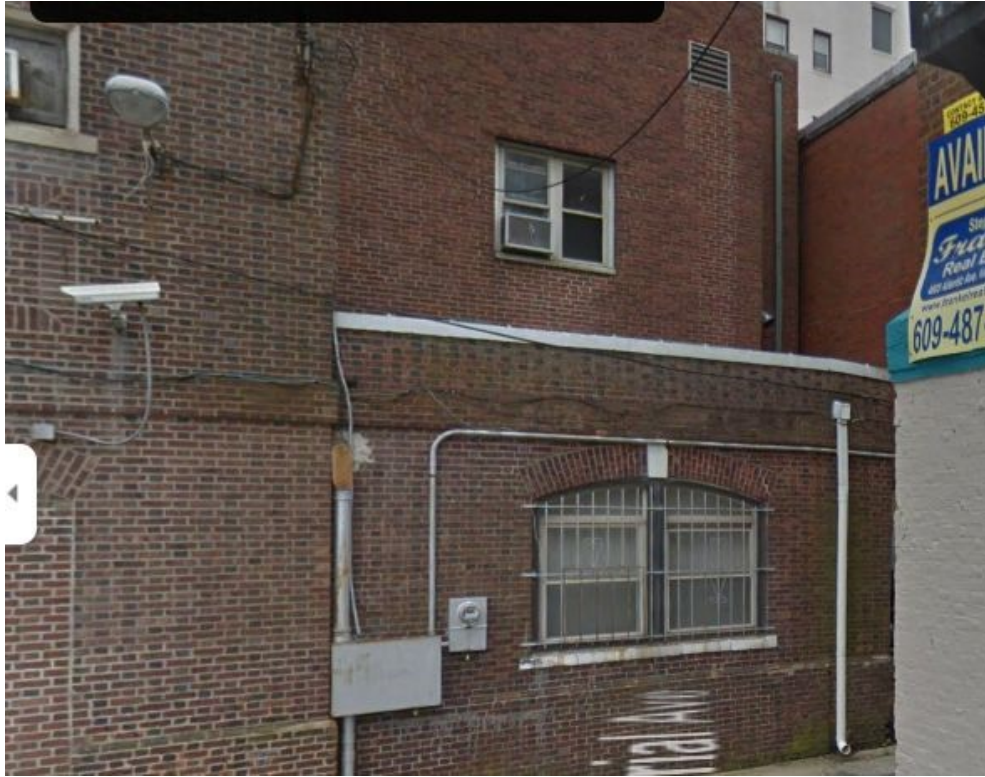
New Jersey Division Of Revenue Business Registration · Updated 1/27/2016

Sponsored Links

Company Information

Company Name:	THE NEW TORCH CLUB
Entity Type:	NEW JERSEY TRADE NAME
File Number:	535370
Filing State:	New Jersey (NJ)
Filing Status:	Unknown
Filing Date:	November 21, 1944
Company Age:	78 Years, 5 Months
Principal Address:	 Atlantic City, NJ 08404
Governing Agency:	New Jersey Division of Revenue

The New Torch Club was given two addresses in the ABC records: 1317 Memorial and 28 Hann. These two small streets actually intersect and it looks like the buildings that housed the Club may still stand. Pictured below is 1317 Memorial.



Where Memorial intersects with Hann is pictured next but, as there were no street numbers I can not be certain if this was the building (on the right) of the New Torch Club. The building on the left is the one above.





STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

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JANUARY 23, 1959

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3. DISCIPLINARY PROCEEDINGS (Garfield) - LEWDNESS AND IMMORAL ACTIVITIES (PERMITTING THE MAKING OF ARRANGEMENTS FOR ILLICIT SEXUAL INTERCOURSE) - PRIOR RECORD - LICENSE SUSPENDED FOR BALANCE OF TERM.
4. DISCIPLINARY PROCEEDINGS (Atlantic City) - NUISANCE (FEMALE IMPERSONATORS AND OBSCENE LANGUAGE) - LICENSE SUSPENDED FOR BALANCE OF TERM.
5. DISCIPLINARY PROCEEDINGS (Atlantic City) - NUISANCE (FEMALE IMPERSONATORS AND OBSCENE LANGUAGE) - LICENSE SUSPENDED FOR BALANCE OF TERM.
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7. DISCIPLINARY PROCEEDINGS (Union City) - OBSCENE LANGUAGE - SALE TO INTOXICATED PERSON - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Haledon) - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Newark) - GAMBLING - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE IN VIOLATION OF REGULATION NO. 38 - UNQUALIFIED EMPLOYEE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
11. STATE LICENSES - NEW APPLICATION FILED.

4. DISCIPLINARY PROCEEDINGS - NUISANCE (FEMALE IMPERSONATORS AND OBSCENE LANGUAGE) - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary
Proceedings against

801 HAMPSHIRE CORP.
t/a TOPSY'S HIDEAWAY
801 N. New Hampshire Avenue
Atlantic City, New Jersey

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-164, issued by the Board
of Commissioners of the City of
Atlantic City.

Edward I. Feinberg, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On August 22, 23, 30 and 31, 1958, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you employed on your licensed premises and allowed, permitted and suffered thereon persons, males impersonating females and females impersonating males, who appeared to be homosexuals; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.

"2. On August 23, 30 and 31, 1958, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that you allowed, permitted and suffered persons employed on your licensed premises as entertainers to perform in a lewd, indecent and immoral manner, sign songs, utter words and phrases and make gestures and movements having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20.

"3. On August 30 and 31, 1958, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

Late in the evening of August 22 and the early morning hours of August 23, 1958, ABC agents at defendant's licensed premises observed that many of its employees appeared by their attire, demeanor and actions to be homosexuals. Seven of such persons were females, four employed as bartenders, one as the headwaitress and two as waitresses. Three of such persons were males who acted as waiters. Another such male acted as master of ceremonies and sang. Three persons of this character, two females and one male, were there as patrons. A female entertainer told double entendre stories and

engaged in indecent language and a song of sexual import, and performed a "bumps and grind" and otherwise objectionable dance.

In the late evening hours of August 30 and early morning hours of August 31, 1958, ABC agents were again in defendant's licensed premises. On this occasion there were three female bartenders, one female head waitress, one female waitress and four male waiters, some of whom had been so employed on the last visit of the agents and all of whom were apparently homosexuals. One of these waiters, when conversing with the agents, used indecent language. Three males of this character entertained by singing. The female singer seen there on the previous visit of the agents told stories, sang and danced in a performance similar to that observed on the first visit.

Rose D'Amato, president of the corporate licensee, wearing a man's sport shirt and close-cropped hair, was also on duty behind the bar. The agents identified themselves to Rose D'Amato and called her attention to what they observed, whereupon she said, "They are queer, but they don't bother anyone or carry on. I won't allow it."

In sum, the licensee's agents did not merely tolerate the presence of sexual deviates or merely permit its licensed premises to become a haven for such persons, but actually publicized, by employing apparent homosexuals almost exclusively, that it was a place where patrons could witness sexual depravity and, as a concomitant thereof, unseemly and degrading entertainment.

As I said in Re Polka Club, Inc., Bulletin 1045, Item 6:

"Rigid enforcement of the regulations, the violation of which forms the basis of the charges herein, is essential to the preservation of decency and the protection of the public morals which demand a severe penalty in this case ...

"...degradation and depravity, which constitute so serious a threat to the public welfare and morals, will not be tolerated upon licensed premises..."

Since defendant has no previous adjudicated record, I shall not revoke its license, but instead, shall suspend it for the balance of its term. Re Polka Club, Inc., supra. It is apparent that if defendant desires a renewal of its license it will have to change drastically its manner of operating the premises.

Accordingly, it is, on this 29th day of December 1958,

ORDERED that Plenary Retail Consumption License C-164, issued by the Board of Commissioners of the City of Atlantic City to 801 Hampshire Corpl, t/a Topsy's Hideaway, for premises 801 N. New Hampshire Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, effective at 7:00 A.M., Monday, January 5, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

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10. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE IN VIOLATION OF REGULATION NO. 38 - UNQUALIFIED EMPLOYEE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
11. STATE LICENSES - NEW APPLICATION FILED.

5. DISCIPLINARY PROCEEDINGS - NUISANCE (FEMALE IMPERSONATORS AND OBSCENE LANGUAGE) - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary)
 Proceedings against)

JOCKEY CLUB, INC.)
 t/a JOCKEY CLUB)
 5-7-7 1/2-9 S. North Carolina Ave.)
 Atlantic City, N. J.)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption)
 License C-212, issued by the Board)
 of Commissioners of the City of)
 Atlantic City.)

 Saul C. Schutzman, Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On August 16, 17, 23, 30 and 31, 1958, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you employed on your licensed premises and allowed, permitted and suffered thereon persons, males impersonating females and females impersonating males, who appeared to be homosexuals; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.

"2. On August 16, 17, 30 and 31, 1958, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that you allowed, permitted and suffered persons employed on your licensed premises as entertainers to perform in a lewd, indecent and immoral manner, sing songs, utter words and phrases and make gestures and movements having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20.

"3. On August 23, 1958, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

On Saturday night, August 16, 1958 at about 10:15 p.m., ABC agents at defendant's licensed premises observed four female bartenders who, by their attire, demeanor and actions, appeared to be homosexuals. At about 11:45 p.m. the agents entered the rear room to observe entertainment which was about to commence. In this room there were four male waiters, a male head waiter and four female waitresses who appeared to be homosexuals. A three-piece band was on the stage. First to perform was a chorus of six persons all of whom were apparent homosexuals and had been previously observed acting as waiters and waitresses. When they completed their performance they returned to their other duties. A male homosexual then appeared on the stage and

announced that he was the master of ceremonies. He introduced a female vocalist who sang double entendre songs and told off-color stories. Other entertainment was presented which was unobjectionable.

ABC agents were again at the premises on Saturday, August 23, 1958 at about 1:30 a.m. Three female apparent homosexuals were acting as bartenders. A number of the apparent homosexuals who acted as waiters and entertainers were observed in the barroom during the course of the evening. A female and two male apparent homosexuals were in the premises as patrons. One of these lesbian bartenders, in a conversation with the agents, used indecent language and declared that she "picked up" many females while employed there as a bartender.

The last visit of the agents was on Saturday, August 30, 1958 when they entered at about 10:00 p.m. Four female apparent homosexuals were tending bar. Two female and three male patrons appeared to be homosexuals. The lesbian bartender with whom the agents had a conversation on August 23d again spoke with them and used some indecent language in the course of her conversation. One of the homosexual entertainers previously observed there came to the bar. At about 10:50 p.m. the agents entered the room where entertainment was being presented. A male comedian was relating lewd and double entendre stories. The master of ceremonies previously referred to appeared on the stage and introduced a homosexual trumpet player. The chorus of six, comprised of homosexual waiters and waitresses, then entertained. Five other homosexual waiters and waitresses were on duty.

The instant case is almost identical with a contemporaneous case. See Re 801 Hampshire Corp., Bulletin 1259, Item 4. Here, as there, the licensee did not merely tolerate the presence of sexual deviates or merely permit its licensed premises to become a haven for such persons, but actually publicized, by employing apparent homosexuals almost exclusively, that it was a place where patrons could witness sexual depravity and, as a concomitant thereof, unseemly and degrading entertainment.

To repeat the reasons why such misconduct is considered of a most aggravated nature.

"Rigid enforcement of the regulations, the violation of which forms the basis of the charges herein, is essential to the preservation of decency and the protection of the public morals which demand a severe penalty in this case...

"...degradation and depravity, which constitute so serious a threat to the public welfare and morals, will not be tolerated upon licensed premises..."

Re Polka Club, Inc., Bulletin 1045, Item 6.

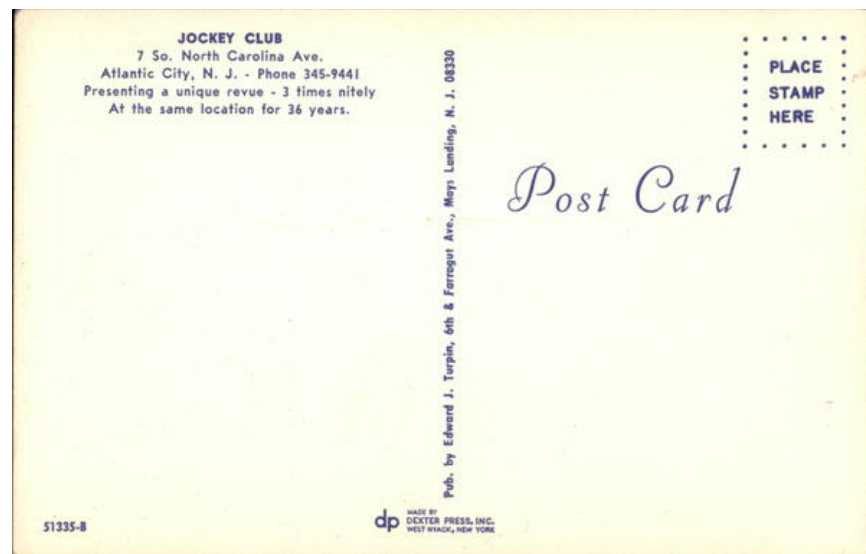
Since defendant has no previous adjudicated record, I shall not revoke its license, but instead, shall suspend it for the balance of its term. Re Polka Club, Inc., supra. It is apparent that if defendant desires a renewal of its license it will have to change drastically its manner of operating the premises.

Accordingly, it is, on this 29th day of December 1958,

ORDERED that Plenary Retail Consumption License C-212, issued by the Board of Commissioners of the City of Atlantic City to Jockey Club, Inc., t/a Jockey Club, for premises 5-7-7 1/2-9 S. North Carolina Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, effective at 7:00 a.m., Monday, January 5, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

The postcard is for the Jockey Club at 7 So. North Carolina Avenue, near Atlantic Ave.



STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1543

JANUARY 6, 1964

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3. DISCIPLINARY PROCEEDINGS (Trenton) - NUISANCE (APPARENT HOMOSEXUALS) - LICENSE SUSPENDED FOR 60 DAYS.
4. DISCIPLINARY PROCEEDINGS (Clifton) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Wallington) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
6. STATE LICENSES - NEW APPLICATION FILED.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - HOSTESS ACTIVITY - PRIOR SIMILAR AND DISSIMILAR RECORD - NO REMISSION FOR PLEA ENTERED AT HEARING - LICENSE SUSPENDED FOR 110 DAYS.

In the Matter of Disciplinary Proceedings against

JOCKEY CLUB, INC.

t/a JOCKEY CLUB

5-7-7 1/2-9 S. North Carolina Ave.
Atlantic City, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-139, issued by the Board of Commissioners of the City of Atlantic City.

Harry Castelbaum, Esq., Attorney for Licensee.

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

After partial hearing, licensee pleaded non vult to charges alleging that on November 10-11, 1962, it (1) permitted indecent entertainment (strip tease accompanied by suggestive movements and posturing), in violation of Rule 5 of State Regulation No. 20, and (2) permitted female entertainers to drink at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20.

Licensee has a previous record of suspension of license (1) by the Director for the balance of its term, effective January 5, 1959, for permitting apparent homosexuals and foul language on the licensed premises (Re Jockey Club, Inc., Bulletin 1259, Item 5), (2) by the municipal issuing authority for ten days, effective June 24, 1960, for permitting apparent homosexuals on the licensed premises, and (3) by the Director for seventy-five days, effective November 28, 1962, for permitting aggravated indecent entertainment and hostess activity on the licensed premises (Re Jockey Club, Inc., Bulletin 1488, Item 1).

The minimum suspension customarily imposed for a first offense as involved in the first charge is thirty days and for that in the second charge twenty days, or a total of fifty days. Re Jockey Club, Inc., Bulletin 1488, Item 1. However, where, as here, the offenses charged are second similar offenses within a period of five years, the minimum, in accordance with established policy, will be doubled to one hundred days, to which will be added ten days by reason of the two previous suspensions for dissimilar violation occurring within the past five years (Re Oliveri, Bulletin 1532, Item 3), making a total suspension of one hundred ten days. No remission will be granted for the plea entered after partial hearing. Re Ten Acres, Inc., Bulletin 1535, Item 7.

Accordingly, it is, on this 18th day of November, 1963,

ORDERED that Plenary Retail Consumption License C-139, issued by the Board of Commissioners of the City of Atlantic City to Jockey Club, Inc., t/a Jockey Club, for premises 5-7-7 1/2-9 S. North Carolina Avenue, Atlantic City, be and the same is hereby suspended for one hundred ten (110) days, commencing at 7:00 a.m. Monday, November 25, 1963, and terminating at 7:00 a.m. Saturday, March 14, 1964.

EMERSON A. TSCHUPP
ACTING DIRECTOR

3. DISCIPLINARY PROCEEDINGS - NUISANCE (APPARENT HOMOSEXUALS) -
LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary)
Proceedings against)

ANTHONY GEORGE CAPPUCCIO)
t/a THE PADDOCK INN)
24 South Warren St.)
Trenton 8, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-177, issued by the City)
Council of the City of Trenton.)

Edward A. Costigan, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"The licensee pleads not guilty to a charge as follows:

'On March 22, 29, 30, April 19 and 20, 1963, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., males impersonating females, in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.'

"The factual setting for the Division's case was developed through the testimony of two ABC agents. Acting upon a specific assignment to investigate alleged homosexual activities at the above licensed premises, they first entered the tavern on March 22, 1963, at about 9:15 p.m. During their stay, which was concluded at 10:45 p.m., they observed that there were twenty-eight patrons at the height of activity, of whom seven were females and twenty-one were males. Ten of the males particularly attracted their attention because they congregated in one area at the rear of the bar and had characteristics, similar actions, demeanor and behavior. These were described as follows: Some of them would touch the others on the face and hands very 'lightly, softly;'

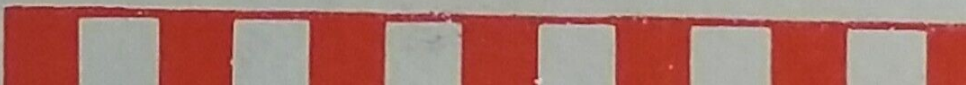


JOCKEY CLUB

**7 So. North Carolina Ave
Atlantic City, N. J.**

Phones: 345-9441

344-0020



STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1366

December 19, 1960

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3. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - MOTOR VEHICLE RETURNED TO INNOCENT LIENOR - ALCOHOLIC BEVERAGES ORDERED FORFEITED.
4. DISCIPLINARY PROCEEDINGS (Paterson) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Lodi) - SALE TO MINOR - LICENSE SUSPENDED FOR 20 DAYS.
6. DISCIPLINARY PROCEEDINGS (Atlantic City) - CONDUCTING BUSINESS AS A NUISANCE (FEMALE IMPERSONATORS) - PRIOR RECORD - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 60 DAYS.
7. DISCIPLINARY PROCEEDINGS (Newark) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - EMPLOYING MINOR WITHOUT PERMIT - LICENSE SUSPENDED FOR 15 DAYS.
8. ACTIVITY REPORT FOR OCTOBER 1960.
9. DISCIPLINARY PROCEEDINGS (West New York) - GAMBLING - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

consider the Flo-Mae, Inc. violation in fixing the penalty herein. It is further recommended that an order be entered suspending the defendants' license for twenty days, the minimum penalty imposed for a sale of alcoholic beverages to a 17-year-old minor (Re Stefanski, Bulletin 1345, Item 7)."

The attorney for the defendant has advised me, in writing, that no exceptions would be taken to the Hearer's Report (Rule 6 of State Regulation No. 16).

After carefully considering all the facts and circumstances herein, I accept the Hearer's conclusion that the defendant is guilty of the charge and so find.

While I cannot agree with the reasons stated by the Hearer for disregarding the previous record of Flo-Mae, Inc., nevertheless, under all the circumstances, I believe that the twenty-day suspension is adequate in this case.

Accordingly, it is, on this 19th day of October 1960

ORDERED that Plenary Retail Consumption License C-31, issued by the Mayor and Council of the Borough of Lodi to Frank Carnevale and Louis Lembo, t/a The Rendezvous, for premises 6 Charles Street, Lodi, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m., Tuesday, October 25, 1960 and terminating at 3:00 a.m., Monday, November 14, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS A NUISANCE (FEMALE IMPERSONATORS) - PRIOR RECORD - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against

ESTYRE STEWART
t/a MIDTOWN BAR & CAFE
1719 Pacific Avenue @ Indiana
Atlantic City, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-229, issued by the Board of Commissioners of the City of Atlantic City.

Paul M. Salsburg, Esq., and Edward I. Feinberg, Esq., Attorneys
for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On June 11, 12, 18, July 23, 24 and 31, 1960, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered thereon persons, males impersonating females and females impersonating males, who appeared to be homosexuals; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and

otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

ABC agents visited defendant's licensed premises on the dates set forth in the charge herein. The agents report that on their first visit, early Saturday evening June 11, 1960, there were about nineteen male persons present; that on their second visit, early Sunday morning June 12, 1960, there were about 69 persons (65 males and 4 females) present; that on their third visit, early Saturday morning June 18, 1960, there were about 28 persons (26 males and 2 females) present; that on their fourth visit, Saturday, July 23, 1960 from 10:45 p.m. to 12:05 the next morning, there were about 76 persons (60 males and 16 females) present; that on their fifth visit, early Sunday morning July 24, 1960, there were about 70 persons (55 males and 15 females) present; that on July 31, 1960 they made two visits (12:20 to 1:20 a.m. and 3:05 to 6:55 a.m.) to the premises, on the first of which there were 62 persons (50 males and 12 females) present and on the second visit there were about 50 males at the main bar and 15 males and females at the rear bar and tables; that on five of their visits a large percentage (50 to 90 per cent) of the males appeared to be homosexuals, as evidenced by their lispy, high-pitched voices, their walk and mannerisms, which sexual deviation they further displayed by holding one another's hand and addressing each other as "gay", "honey", "doll" and "adorable".

The investigation further discloses that on their last visit to the premises, one of the homosexuals had invited an agent and another had completed arrangements with a second agent, to engage in perverted sexual relations. On this visit the agents also observed two females who appeared to be lesbians.

Counsel for the licensee has submitted a letter urging in mitigation of the offense that the licensee neither sought nor encouraged the patronage of these persons; that during the summer months homosexuals usually came into the city in large numbers and particularly this past summer, when such deviates descended upon the city in droves and created an acute police problem as indicated by newspaper clippings of the local paper enclosed with counsel's letter; that the licensee did not know that she could order undesirable persons from the licensed premises without initiating legal proceedings; that it was the policy of the police in the past that they would not aid in removing a patron from a licensed premises unless a sworn complaint was filed and a warrant was issued; that she and other licensees have been afraid and reluctant to take such action for fear of subjecting themselves to a civil suit for damages for defamation of character or false arrest; that on July 3, 1960, following a ten-day suspension by the local issuing authority for a similar offense as charged herein, she hired a man to stand at the door and instructed him to bar homosexuals from the licensed premises and that the aforesaid ten-day penalty, coming in the heart of the summer season, entailed a substantial loss to the licensee. However, ignorance of the law or the regulation does not afford any excuse for the violation. Licensees and their employees must know the rules and scrupulously adhere to them. Cf. Re Krynicki, Bulletin 1238, Item 5.

Defendant has a prior adjudicated record. Effective April 28, 1958, I suspended her license for twenty-five days for sale to minors (Re Stewart, Bulletin 1227, Item 4) and effective June 24, 1960 the license was suspended for ten days by the local issuing authority for a violation similar to that charged herein. Considering all the circumstances of the case including the prior record, the plea, and the apparent effort made by the licensee to bar these undesirables from the premises, I shall suspend defendant's license for a period of sixty days.

Accordingly, it is, on this 24th day of October 1960,

ORDERED that Plenary Retail Consumption License C-229 issued by the Board of Commissioners of the City of Atlantic City to Estyre Stewart, t/a Midtown Bar & Cafe, for premises 1719 Pacific Avenue, Atlantic City, be and the same is hereby suspended for sixty (60) days, commencing at 7:00 a.m., Monday, October 31, 1960 and terminating at 7:00 a.m., Friday, December 30, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - EMPLOYING MINOR WITHOUT PERMIT - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary
Proceedings against

GABRIEL'S TAVERN, INC.
57 Seventh Avenue
Newark 4, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-525, issued by the Municipal
Board of Alcoholic Beverage Control of
the City of Newark.

Mario V. Farco, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

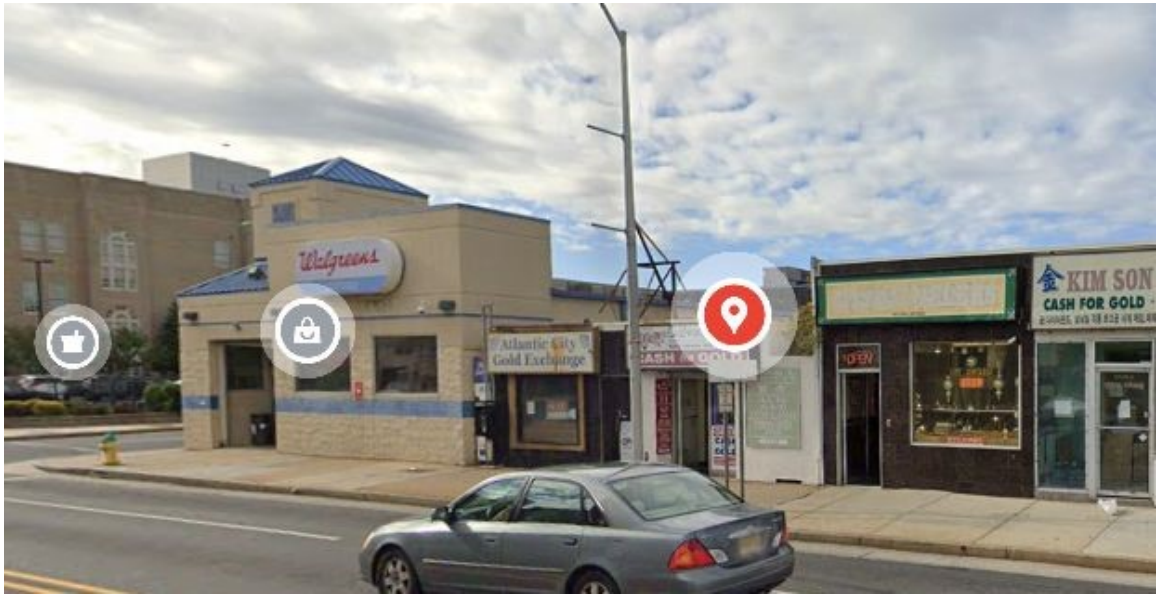
"Defendant pleaded not guilty to the following charges:

- '1. On May 3, 1960, at your licensed premises, you sold and offered for sale, at retail, directly or indirectly, three 12-ounce cans of Ballantine beer, a malt alcoholic beverage, at less than the price thereof filed with the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30.
- '2. On May 3, 1960 and prior thereto, you employed and allowed, permitted and suffered the employment in and upon your licensed premises of a person under the age of twenty-one (21) years, viz., Gabriel ---, age 19; contrary to and in violation of Rule 3 of State Regulation No. 13.'

"At the hearing held herein the Division called as its witnesses Gabriel --- (age 19) and two ABC agents, hereinafter referred to as Agent O and Agent D.

"Gabriel testified that he was born on March 5, 1941, and, hence, was 19 years of age at the time of the alleged violations.

"Agent O testified that on May 3, 1960, at about 11:30 a.m., he and Agent D arrived in the immediate vicinity of the defendant's licensed premises which he alone entered while his companion waited outside; that he took a seat at the bar and was served a glass of beer by Vincent Contaldi (president of the corporate-licensee); that at about 11:55 a.m., Vincent Contaldi, in response to his request



STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

April 7, 1960.

BULLETIN 1333

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8. MORAL TURPITUDE - COMMERCIALIZED GAMBLING - NUMEROUS CONVICTIONS - APPLICANT HELD TO BE INELIGIBLE TO ENGAGE IN ALCOHOLIC BEVERAGE BUSINESS.

7. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS A NUISANCE (FEMALE IMPERSONATORS ON PREMISES) - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 75 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

David Sherman, Inc.
t/a 1025 Bar and Grille
1025 Atlantic Ave. and rear
of 1023 Atlantic Avenue
Atlantic City, New Jersey

Holder of Plenary Retail Consumption License C-130, issued by the Board of Commissioners of the City of Atlantic City.

DISCIPLINARY
PROCEEDINGS
CONCLUSIONS
AND
ORDER

Edwin H. Helfant, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On January 16, 17, 29 and 30, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered thereon persons, males impersonating females and females impersonating males, who appeared to be homosexuals; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.
- "2. On Saturday, January 30, 1960 at about 12:25 A.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., eight 7-ounce bottles of Schlitz beer, at retail, in their original containers for consumption off your licensed premises and at about 12:35 A.M. on said date, allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

ABC agents at the defendant's licensed premises in the late evening hours of January 16 and the early morning hours of January 17, observed at least eight female patrons and a waitress who, by their attire, speech, actions and general demeanor, appeared to be lesbians. The agents discussed these apparent lesbians with the bartender and commented upon the fact that there were a large number of them in the community and asked the bartender whether many of them came to these licensed premises, to which the bartender replied that all came there after the other establishments closed -- that it, the premises in question, is a regular hangout for them. These agents were again at the premises at about the same hours of January 29-30, at which time they observed at least ten males and eight females who, by their attire, speech, actions and general demeanor, appeared to be homosexuals and lesbians. The waitress who appeared to be a lesbian was also there.

On both occasions Frank Marchese, president of the corporate-licensee, acted as bartender until about midnight, at which time Thomas R. Hughes took over those duties. On this occasion the agents again had a discussion with the bartender concerning the presence of these persons in the licensed premises, the agents remarking that the male apparent homosexuals appeared to outnumber the apparent lesbians, to which the bartender replied that they get all kinds; that you never know who will walk in next but that they try to hold them down the best they can. Some of the patrons in question engaged in conduct of a degree not sufficient to warrant a disciplinary charge for permitting lewd and obscene conduct on licensed premises.

At about 12:35 a.m., two of the apparent homosexuals left the premises with eight "nip" bottles of beer which the bartender had placed in a bag and left on the floor near the bar, where it was picked up by one of the apparent homosexuals. One of the agents followed this person when he left the premises, apprehended him and brought him back to the premises with the beer. Thereupon the agents disclosed their identity to the bartender. The purchaser acknowledged the sale of the beer in question, stating that the purchase price was charged to his "credit account". The bartender verbally admitted that he sold the beer to this person and stated that the homosexuals and lesbians had been frequenting the premises since September 1959. During the course of this conversation, Marchese entered the premises, admitted that the homosexuals and lesbians frequented the premises and stated: "I know what they are, I didn't want them here but what could I do?" and stated further: "I know the place has become a 'gay bar' and that's what I didn't want to happen."

Defendant has no previous adjudicated record. Counsel for the licensee, in his letter, urges in alleged mitigation that Frank Marchese, its president, was compelled to cease supervision of his licensed business by reason of illness in October 1959, after which the undesirable element began to frequent the premises, and that he returned to active management about the end of January 1960, whereupon he discouraged this type of business to the extent that it no longer exists. These circumstances, even if accepted at face value, do not warrant the imposition of less than the minimum penalty imposed for violations of this nature. I shall suspend the defendant's license for a period of sixty days on Charge 1 (Re Thorn, Bulletin 1242, Item 3) and for fifteen days on Charge 2 (Re Saleeby, Bulletin 1323, Item 4), making a total suspension of seventy-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of seventy days.

Accordingly, it is, on this 3rd day of March, 1960,

ORDERED that Plenary Retail Consumption License C-130, issued by the Board of Commissioners of the City of Atlantic City to David Sherman, Inc., t/a 1025 Bar and Grille, for premises 1025 Atlantic Ave. and rear of 1023 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for seventy (70) days, commencing at 7:00 a.m., Tuesday, March 8, 1960, and terminating at 7:00 a.m., Tuesday, May 17, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1345

JULY 19, 1960

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2. APPELLATE DECISIONS - KATZ v. EAST ORANGE.
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6. DISCIPLINARY PROCEEDINGS (Atlantic City) - CONDUCTING BUSINESS AS A NUISANCE - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (South Amboy) - SALE TO MINOR - LICENSE SUSPENDED FOR 20 DAYS.
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9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA. (Hamilton Township - Mercer County).
10. STATE LICENSES - NEW APPLICATION FILED.

It is, on this 27th day of May 1960,

ORDERED that the fifteen-day suspension heretofore imposed against appellants' license is hereby restored and reinstated to commence as scheduled, at 3 a.m. Wednesday, June 1, 1960, and continue in effect until 3 a.m. Saturday, June 11, 1960; that said suspension shall then be lifted until 3 a.m. Monday, June 13, 1960, at which time the suspension shall be reinstated and continue in effect until 3 a.m. Saturday, June 18, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS A NUISANCE -
PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

V. M. & S., INC.)
t/a FAMOUS BAR)
501 Pacific Avenue @ Massachusetts)
Atlantic City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-216, issued by the Board of Commissioners of the City of Atlantic City.)

James F. McGovern, Jr., Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On December 2, 1959, January 2, 3, 16 and 17, 1960, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered persons who appeared to be homosexuals, viz., females impersonating males, to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

ABC agents were at defendant's licensed premises on the late evening hours of December 2, 1959 and the late evening and early morning hours of January 2-3 and January 16-17, 1960. During the course of their first visit, two agents observed at least twelve women, no more than eight of whom were in the premises at one time, who, by their attire, speech, actions and general demeanor, appeared to be lesbians. On the second visit, two ABC agents observed in the premises a total of about six women who appeared to be lesbians. A bartender, in conversation with one of the agents, indicated that he was aware of the presence of such lesbians, who numbered about one-half of the patronage. On their last visit, the same agents who were there on January 2nd observed in the premises a total of about sixteen women who appeared to be lesbians. On this occasion the agents revealed the identity to James McDevitt, the bartender, who verbally admitted that he was aware that lesbians frequented the establishment.

Sylvia Rosner, an officer of the corporate-licensee, appeared on the scene, was informed of the violation and stated that she did not know that lesbians were not permitted to hang out in a tavern.

Counsel for the licensee has submitted a letter urging in alleged mitigation of the offense that the licensee neither seeks nor encourages the patronage of these persons but finds itself in the position where it is almost impossible to refuse to serve patrons of such type for fear of being accused of illegal discrimination, with no warrant or justification for barring them in the absence of specific grounds; that it is a virtual impossibility to cope with the problem.

Insofar as the licensee's claimed inability to prevent this type of patronage, the answer is to be found in the language of Re Bader, Bulletin 1073, Item 4, wherein it was stated:

"In any event it is simple common sense that a licensee is not helpless to rid himself of undesirable patrons; he is master in his own house if he sincerely wishes so to be. This principle has been referred to and publicized in the early days of this Division. Commissioner Burnett, in Re Dorsey, Bulletin 226, Item 11, quoted from the opinion of Judge, afterwards Justice, Fort, in State v. Lynch, 23 N.J.L.J. 45, wherein he said:

'A saloon is not a public place. No one has a right to be or remain therein if the proprietor objects to his being there. Persons there, as in any other place of business, are mere licensees, subject to be ejected at the will of the proprietor.'

"Decisions of this Division to the same effect are Re Rollka, Bulletin 142, Item 4, Re Plaza Hotel-O'Leary, Bulletin 188, Item 9, and Re Griffin, Bulletin 200, Item 7.

"A similar contention that homosexuals cannot be barred from licensed premises has recently been rejected. Re Kaczka & Trobiano, Bulletin 1063, Item 1."

Defendant has a prior adjudicated record. Effective April 30, 1956 the license was suspended for ten days by the local issuing authority for sale to a minor and sale to an intoxicated person. The lesbians who were observed in the premises do not appear to have engaged in any lewd and obscene conduct. There were many patrons present on each visit of the ABC agents who were normal in appearance and there is nothing to indicate that the premises were a haven for lesbians or deliberately designed as a recreational meeting place for them. Under the particular circumstances in the case, including the previous record for a dissimilar violation within the past five years, I shall suspend defendant's license for a period of thirty-five days. Cf. Re Siegel, Bulletin 1293, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 25th day of May 1960,

ORDERED that Plenary Retail Consumption License C-216, issued by the Board of Commissioners of the City of Atlantic City to V.M. & S., Inc., t/a Famous Bar, for premises 501 Pacific Avenue, Atlantic City, be and the same is hereby suspended for thirty (30)

days, commencing at 7:00 a.m. Tuesday, May 31, 1960, and terminating at 7:00 a.m., Thursday, June 30, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary
Proceedings against

JOHN J. STEFANSKI
t/a JACK'S TAVERN
506 Washington Avenue
South Amboy, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-23, issued by the Common
Council of the City of South Amboy.

Defendant-licensee, Pro se.

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to a charge alleging that on March 12, 1960 he sold, served and delivered alcoholic beverages to a 17-year-old minor, in violation of Rule 1 of State Regulation No. 20.

"When the matter came on for hearing, the Division called as its witnesses Louis ---, his minor companion Richard ---, and an ABC agent who participated in the investigation. John J. Stefanski, the licensee, appeared pro se.

"Louis testified that he is 17 years of age; that at about 7:00 p.m. on March 12, 1960, he and Richard drove to defendant's licensed premises and parked the car across the street therefrom; that Richard gave him \$2 to purchase some wine; that he alone entered defendant's tavern and purchased from the licensee a quart bottle of muscatel wine and a pack of cigarettes; that the licensee, without requiring any written representation of his age, placed the quart of wine in a paper bag and accepted \$1.10 as payment for the wine; that he carried the package to the car and handed it to Richard and that both drove from the vicinity of defendant's premises and consumed the beverage.

"Richard testified that he gave Louis \$2 with which to purchase the wine; that he observed Louis go into the tavern empty-handed and return therefrom carrying a package; that Louis handed him the package which contained a quart bottle of muscatel wine which he and Louis consumed after leaving the vicinity of defendant's premises.

"The ABC agent testified that at 7:15 p.m., Wednesday, March 16, 1960, the two minors directed him and another agent to defendant's tavern; that both minors identified the premises wherein the wine was obtained and Louis identified the licensee as the person who had made the sale; that prior to going to the tavern both minors had described the premises and Louis had described the person who made the sale; that the descriptions corresponded with what he observed; that the licensee, while admitting that he was the only person who tended bar on the date alleged, claimed that he had not made the sale and that

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1418

October 31, 1961

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3. DISCIPLINARY PROCEEDINGS (Camden) - PURCHASE BY RETAILER FROM OTHER THAN A NEW JERSEY MANUFACTURER OR WHOLESALE - LICENSE SUSPENDED FOR 15 DAYS.
4. DISCIPLINARY PROCEEDINGS (Guttenberg) - GAMBLING (CARD GAME) - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Clifton) - GAMBLING - LOTTERY (BASEBALL POOL) - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Fort Lee) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
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New Jersey State Library

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1418

October 31, 1961

1. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS A NUISANCE -
PRIOR RECORD - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Pappy's Bar, Inc.)
t/a Pappy's Bar)
117 S. Mississippi Avenue)
Atlantic City, New Jersey)

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption)
License C-55, issued by the Board of)
Commissioners of the City of Atlantic)
City.)

Edward A. Costigan, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On June 10, 11, July 1 and 2, 1961, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., males impersonating females, in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct by such persons and by others in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

ABC agents visited defendant's licensed premises on the dates set forth in the charge herein. The agents report that on their first visit on Saturday, June 10, 1961 between 11:35 p.m. until 2:45 a.m. on June 11, 1961, there were approximately twenty-five males and two females present; that at the height of the activity during this visit, there were approximately sixty-five males and three females on the premises. Most of the males were apparently homosexuals who were dressed in tight-fitting trousers, multi-colored sport shirts or bulky-knit sweaters, with sleeves pushed up to the elbows, white sneaker shoes, loafers or suede bucks. Their conduct followed the usual pattern: the swishing of the hips from side to side in an effeminate manner, the limp wrist, the high-pitched voice, the frequent use of such terms of endearment as "honey", "dear", "baby" and "mother", when addressing each other.

A female, known as Morgan, who had charge of the kitchen, gave the unmistakable appearance of a lesbian -- she wore male type clothing such as a sport shirt, man's sweater, male trousers and loafer shoes. She wore her hair in a masculine fashion, had no facial makeup, spoke in a rough, raspy tone of voice, and her movements were rough and manly. Dick, the bartender, also appeared to be a homosexual and possessed the above-described characteristics of most of the other patrons. The agents observed these apparent homosexuals holding each other's hands, caress each other affectionately and dance by themselves to the music of a juke box in an effeminate manner. As the agents departed, one of them said to the bartender, "This really is a very nice gay spot you have here", to which the bartender replied, "Thank you, dear."

On Saturday, July 1, 1961 at about 11:15 p.m., the agents returned to the subject premises and remained there until 2:55 a.m. on July 2, 1961, during which time they observed Dick, the bartender, later identified as Ralph Newton Herschner, and Kelly, later identified as Henry Kalisewicz, vice-president of the subject corporation, as two of the bartenders who had been on duty on June 10th. On this visit, there were about ninety males and one escorted female on the premises, most of whom wore the same type of clothing as hereinabove described, and affected the same mannerisms and effeminate conduct which characterized the homosexuals on the previous visit. Dick engaged in obscene and lewd actions, interspersed with obscene language, an exact description and repetition of which would serve no useful purpose in this account. The agents then identified themselves to Dick, who then summoned a person known as "Pappy" (later identified as Frank Bozzi, secretary-treasurer of the defendant corporate-licensee). Informed of these violations, "Pappy" stated, "This place has been gay for twenty years." He then explained that he had taken over the business two years ago, but couldn't change the reputation overnight, and had been trying to "clean the place up" all along.

While Mr. Bozzi, the major stockholder of this corporate-licensee, has insisted that he has tried to "clean his place up", he has not made a very effective effort. By way of alleged mitigation, the attorney for the defendant-licensee has submitted a letter which I have carefully read and considered. His statement asserts that the officers of defendant attempt to run the premises in a businesslike manner, complying with the rules and regulations of this Division. He further states that Dick, the bartender, has been discharged because of his lewd actions.

Proper liquor control dictates that licensed premises are not to become a haven for homosexuals or lesbians. As Judge Jayne stated in Paddock Bar, Inc. v. Alcoholic Beverage Control Division, 46 N.J. Super. 405, at page 408:

"Assuredly, it is inimical to the preservation of our social and moral welfare to permit public taverns to be converted into recreational fraternity houses for homosexuals or prostitutes. It is the policy and practice of the Division of Alcoholic Beverage Control to nip reasonably apprehended evils while they are in the bud."

Defendant has a prior adjudicated record. Effective June 25, 1960, its license was suspended for ten days by the Board of Commissioners of Atlantic City for conducting its business as a nuisance (permitting homosexuals on licensed premises).

Considering all of the circumstances in this case, including the prior similar violation which occurred within five

years of the date of this offense, I shall suspend defendant's license for a period of sixty days. Re Stewart, Bulletin 1366, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of fifty-five days.

Accordingly, it is, on this 18th day of September 1961,

ORDERED that Plenary Retail Consumption License C-55, issued by the Board of Commissioners of the City of Atlantic City to Pappy's Bar, Inc., t/a Pappy's Bar, for premises 117 S. Mississippi Avenue, Atlantic City, be and the same is hereby suspended for fifty-five (55) days, commencing at 7:00 a.m., Tuesday, September 26, 1961 and terminating at 7:00 a.m., Monday, November 20, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Jimmy's Tavern, Inc.
t/a Jimmy's Tavern
2802 Buren Avenue
Camden 5, N. J.,

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption
License C-166, issued by the Municipal
Board of Alcoholic Beverage Control of
the City of Camden.

Defendant-licensee, by James W. Eskridge, Officer and Stockholder
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On August 25, 1961 you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly to persons under the age of twenty-one (21) years, viz., Anthony ---, age 18, Donald ---, age 20, Michael ---, age 20, Peter ---, age 20 and Leonard ---, age 18, and you allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.
- "2. On August 25, 1961 you, through James W. Eskridge and Joseph H. Marrini, officers, directors and stockholders of your corporation, failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, inspection and examination at your licensed premises then and there being conducted by Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of R.S. 33:1-35."

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1437

March 12, 1962

ITEM

1. APPELLATE DECISIONS - BROOKSIDE TAVERN v. PEMBERTON
2. APPELLATE DECISIONS - SNUG TAVERN, INC. v. ORANGE
3. DISCIPLINARY PROCEEDINGS (Atlantic City) - NUISANCE (LEWDNESS AND IMMORAL ACTIVITY, FOUL LANGUAGE, APPARENT HOMOSEXUALS, SOLICITATION FOR PROSTITUTION, HOSTESS ACTIVITY) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 155 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Somers Point) - SALE TO MINORS - FAILURE TO DISCLOSE PRIOR SUSPENSION IN LICENSE APPLICATION - LICENSE SUSPENDED 40 DAYS, LESS 5 FOR PLEA - EFFECTIVE DATE DEFERRED.
5. DISCIPLINARY PROCEEDINGS (Trenton) - PERMITTING GAMBLING (NUMBERS) ON LICENSED PREMISES - LICENSE SUSPENDED 25 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (South Orange) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (BERKELEY TWP.) - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
8. SALE ON CREDIT AT RETAIL - NEWSPAPER AND OTHER ADVERTISEMENT OF MEMBERSHIP IN CREDIT PROGRAM EXCEPT DISPLAY OF EMBLEM ON EXTERIOR OF LICENSED PREMISES PROHIBITED.
9. STATE LICENSES - NEW APPLICATION FILED.

3. DISCIPLINARY PROCEEDINGS - NUISANCE (LEWDNESS AND IMMORAL ACTIVITY, FOUL LANGUAGE, APPARENT HOMOSEXUALS, SOLICIATATION FOR PROSTITUTION, HOSTESS ACTIVITY) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 155 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Harlem Cafe Inc.)
t/a King Bar & Liquor Store)
1201-1203 Baltic Avenue (@ North Carolina))
Atlantic City, New Jersey)

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption)
License C-176, issued by the Board of)
Commissioners of the City of Atlantic)
City.)

- - - - -)
Isaac C. Ginsburg, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On September 7, 15, 16, 22 and 23, 1961, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises; allowed, permitted and suffered persons who appeared to homosexuals, e.g., males impersonating females and females impersonating males in and upon your licensed premises and to frequent and congregate thereon; allowed, permitted and suffered females on your licensed premises to solicit male patrons for and to make overtures to and arrangements with them for illicit sexual intercourse; allowed, permitted and suffered unescorted females frequenting your licensed premises to solicit male patrons and customers to purchase numerous drinks of alcoholic beverages for consumption by them and others; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

On September 7, 1961, ABC agents visited defendant's licensed premises and observed among the thirty patrons present five males who were attired in either tight-fitting chino-type pants or dungarees, and some of whom wore pull-over sweaters with the sleeves pushed to the elbow while others had on brightly colored shirts. They also observed that some of these males had long hair, "fluffy" on the top and combed back on the sides, and that several of them walked about on their toes, swishing their hips from side to side and with their wrists limp. Seven female patrons were attired in male-type clothes consisting of dress or sport shirts opened at the collar or "boat neck" polo shirts, trousers with zippered fly fronts, oxford laced shoes or loafers and sneakers. Their hair was short, none wore any "make-up" and they walked with a heavy gait.

On September 15, 1961, agents again visited defendant's licensed premises and observed, among the forty patrons in the place, ten females

five of whom were attired in a similar manner as described by the agents on the aforementioned prior visit, and who departed themselves in a masculine fashion. Moreover, the agents overheard a conversation between an apparent lesbian and a male patron in which the apparent lesbian used filthy and indecent language, the repetition of which would serve no useful purpose. The agents also reported observing three apparent lesbians at various times dancing with other females. The agents left the premises at 12:05 a.m. on September 16th.

On September 22, 1961, at 10:45 p.m., two agents entered the premises in question and, among the thirty-five patrons in the premises, observed ten females, four of whom appeared to be lesbians. Their attire was identical to that worn by females as described on the previous visits. One of these females, dressed as a man, was seen dancing with a female who was later identified as the manager of the establishment and, at times during the dance, they embraced and kissed each other.

On September 23, 1961, at 12:10 a.m., two more agents entered. While two of the agents who came in later were seated at the bar, a female called Butch asked one of the agents for money to play the juke box and then requested him to buy her a drink. When the agent agreed, Butch called to Phyllis Grant (hereafter Phyllis), the barmaid, for service. Phyllis served drinks to the two agents, to Butch and to three other females sitting at the bar and, without asking the agent's permission, took his money lying on the bar in front of him and used it as payment for the six drinks. Butch introduced a female called Gloria, who asked them to buy a drink for her and then called Phyllis and ordered drinks for several females in the area. Phyllis poured "double shots" for all and again took the payment for the drinks from the agent's money. The agent and Gloria discussed having sexual relations and she informed him that it would cost him \$15 for sexual intercourse and \$3 for the room. The fellow-agent called to Phyllis and asked if Gloria was all right as she wanted \$15 from him for sexual intercourse and Phyllis said, "I don't know her too well, but all the girls in here are all right". A short time later, the agent and Gloria left in the agent's car to go to the place where she was staying and, upon entering the bedroom, he gave her two ten-dollar bills, the serial numbers of which had been previously recorded. Gloria went upstairs, but returned to the bedroom and was undressing when there was a knock on the door and, upon opening it, another ABC agent and a police officer entered. The "marked" \$10 bills were received by the police officer from a woman living on the upper floor in the house. In a written statement given to the agents, Gloria admitted that she had invited the agent to her room to engage in sexual relations.

Although the evidence does not indicate that any of the officers or employees actually procured the female to engage in illicit sexual intercourse with the agent, there is no doubt that they were aware of what was occurring on the licensed premises.

Defendant has a prior adjudicated record. Effective March 10, 1951, and October 7, 1952, its license was suspended for five and fifteen days, respectively, by the local issuing authority for an "hours" violation. On January 4, 1959 and June 24, 1960, its license was suspended for twenty days and ten days, respectively, by the local issuing authority for sale of alcoholic beverages to a minor and conducting the place of business as a nuisance. I have read the attorney's letter in mitigation of penalty and his request for leniency. However, for permitting such conduct on the part of patrons as indicated in this case and, furthermore, for allowing the type of persons as described by the agents to congregate on the licensed premises, a severe penalty is warranted.

Under the circumstances appearing herein and considering the defendant's past record, I shall suspend defendant's license for one hundred fifty-five days. Five days will be remitted for the plea entered

herein, leaving a net suspension of one hundred fifty days. Cf. Re Stewart, Bulletin 1366, Item 6, and Re A & B Bar, Inc., Bulletin 1416, Item 1.

Accordingly, it is, on this 22nd day of January, 1962,

ORDERED that Plenary Retail Consumption License C-176, issued by the Board of Commissioners of the City of Atlantic City to Harlem Cafe Inc., t/a King Bar & Liquor Store, for premises 1201-1203 Baltic Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, expiring at midnight, June 30, 1962, effective at 7:00 a.m., Thursday, February 1, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - FAILURE TO DISCLOSE PRIOR SUSPENSION IN LICENSE APPLICATION - LICENSE SUSPENDED 40 DAYS, LESS 5 FOR PLEA - EFFECTIVE DATE DEFERRED.

In the Matter of Disciplinary
Proceedings against)

Tony Mart, Inc.)
t/a Tony Mart)
939 Bay Avenue)
Somers Point, N. J.)

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption
License C-9, issued by the Common)
Council of the City of Somers Point.)

-----)
Robert H. Davisson, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., Appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The following charges were preferred by the Division against the defendant-licensee:

- '1. On Friday night June 30 and early Saturday morning July 1, 1961, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Gail ---, age 18, Marlene ---, age 18 and Lillian --, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.
- '2. In your application filed with the Common Council of the City of Somers Point and upon which you obtained your current plenary retail consumption license, you falsely stated "No" in answer to Question No. 41 which asks: "Have you or has any person mentioned in this application ever had any interest, directly or indirectly, in any alcoholic beverage license or permit in New Jersey or any other state which was surrendered, suspended, revoked or cancelled?", whereas in truth and fact

✓

MR. ZEMEL

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N. J. 07102

BULLETIN 1588

November 18, 1964

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3. DISCIPLINARY PROCEEDINGS (Atlantic City) - NUISANCE (APPARENT HOMOSEXUALS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Wood-Ridge) - NUISANCE - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - FOUL LANGUAGE - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

New Jersey State Library

3. DISCIPLINARY PROCEEDINGS - NUISANCE (APPARENT HOMOSEXUALS) -
 LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
 Proceedings against

K & K Corp.
 t/a Val's Bar
 114 S. New York Ave.
 Atlantic City, N. J.

CONCLUSIONS
 AND
 ORDER

Holder of Plenary Retail Consumption
 License C-76, issued by the Board of
 Commissioners of the City of
 Atlantic City

 Albert J. Perrella, Esq., Attorney for Licensee
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
 Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 21, June 27-28 and July 18, 1964, it conducted the licensed place of business as a nuisance, viz., permitting apparent male homosexuals on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Reports of investigation disclose that on the dates in question, the licensed premises was patronized by large numbers of apparent male homosexuals, i.e., on June 21 and June 27-28 forty out of a total of fifty male patrons and on July 18 approximately 90% of a total male patronage of one hundred twenty-five.

Licensee has a previous record of suspension of license by the municipal issuing authority for twenty-five days effective February 8, 1953, for sale to minors. In addition, the license of V. M. & S. Inc., t/a Famous Bar, 501 Pacific Avenue, Atlantic City, of which corporation Valentine and Mildred Kusek (principal stockholders of K & K Corp.) were then officers, was suspended by the municipal issuing authority for ten days effective April 30, 1956, for sale to a minor and to an intoxicated person.

The prior record of suspensions of license for dissimilar violation occurring more than five years ago disregarded, on the basis of the facts appearing (simple congregation of a relatively large number of apparent homosexuals) the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re Murphy's Tavern, Inc., Bulletin 1563, Item 4.

Accordingly, it is, on this 29th day of September, 1964,

ORDERED that Plenary Retail Consumption License C-76, issued by the Board of Commissioners of the City of Atlantic City to K & K Corp., t/a Val's Bar, for premises 114 South New York Avenue, Atlantic City, be and the same is hereby suspended for fifty-five (55) days, commencing at 7:00 a.m. Tuesday, October 6, 1964, and terminating at 7:00 a.m. Monday, November 30, 1964.

JOSEPH P. LORDI
 DIRECTOR

STATE OF NEW JERSEY
Department of Law and Public Safety ^{Kremer}
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd., Newark, N.J. 07102

BULLETIN 1685

July 27, 1966

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10. STATE LICENSES - NEW APPLICATION FILED.

New Jersey State Library

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd., Newark, N.J. 07102

BULLETIN 1685

July 27, 1966

1. DISCIPLINARY PROCEEDINGS - NUISANCE (APPARENT HOMOSEXUALS) -
PRIOR SIMILAR RECORD OF CORPORATION WITH COMMON STOCKHOLDER -
LICENSE SUSPENDED FOR 120 DAYS.

In the Matter of Disciplinary)
Proceedings against)

Val's Bar, Inc.,)
t/a Val's Bar,)
114 S. New York Ave.,)
Atlantic City, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-225, issued by the Board)
of Commissioners of the City of)
Atlantic City.)
-----)

Jacobson & Silverman, Esqs., by Louis C. Jacobson, Esq.;
Norman Alexander Oshtry, Esq. and Murray Powlen, Esq.,
Co-Counsel; Attorneys for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"During the early morning hours of Sunday July 25 and
Saturday July 31, on the nights of Friday, August 6 and
Thursday, August 19 and on Friday night September 10 into
early morning hours of Saturday, September 11, 1965, you
allowed, permitted and suffered your licensed place of business
to be conducted in such manner as to become a nuisance in that
you allowed, permitted and suffered persons who appeared to
be homosexuals, e.g. males impersonating females in and
upon your licensed premises, allowed, permitted and suffered
such persons to frequent and congregate in and upon your
licensed premises; and otherwise conducted your licensed
place of business in a manner offensive to common decency and
public morals; in violation of Rule 5 of State Regulation
No. 20."

The factual setting for the Division's case was devel-
oped through the testimony of six ABC agents. Acting upon specific
assignments to investigate alleged homosexual activities at the
above licensed premises, they visited the said premises on the
early mornings of July 25 and July 31, on the nights of Friday,
August 6 and Thursday, August 19, and on Friday night September 10
into the early morning hours of Saturday, September 11, 1965.

On July 25, 1965, at about 12:05 a.m., Agents G and M
visited the said premises and remained there until 1 a.m. They
then left the premises and returned at about 3 a.m., at which
time they remained until 3:30 a.m. On both visits they noted
that the premises were packed to capacity with about one hundred

fifty patrons, all of whom were males, with the exception of "two or possibly four [females] at the most." About ninety-five per cent. of the patrons attracted their attention because they appeared to be males impersonating females, or homosexuals. They made this observation because these patrons had high-pitched voices, effeminate mannerisms; almost all were dressed in "tight chino pants, the short Bermuda, very tight Bermuda pants, the bulky knit sweaters." The agents also noted that, when they spoke in these high-pitched and lispy voices, they made such comments as "Hon, Sweetie, et cetera." There was also a very strong odor of perfume which was emitted from these persons.

The next visit to these premises was made by Agents D and G on Saturday, July 31, 1965, at about 12:45 a.m. On this occasion there were about seventy male patrons but no female patrons. About ninety per cent. of them attracted the attention of the agents because they appeared to be homosexuals. The agents further noted that they were conversing in groups, and their appearance was described as follows: While sitting at the bar they had their "elbows tucked in, puffing their cigarettes effeminately, holding it at the end of their fingers, using a limp wrist action, sipping their drinks, rolling of the eyes when in conversation or perhaps just looking at another one endearingly. On occasion they touched one another." They wore tight-fitting trousers and bulky knit sweaters. When walking about they seemed to swish, moving their hips from side to side. They wore sneakers, loafers, and beach sandals. They frequently addressed each other as "Dear and Sweetie."

The next visit to the premises was made on August 6, 1965, at about 9:45 p.m. by Agents D and R. On this occasion the agents observed that at the height of activity there were fifty-five males and six females; of the fifty-five males about seventy per cent. of them attracted their attention because they appeared to be males impersonating females, or homosexuals. The basis for their conclusion was as follows: The patrons sat in groups or in couples conversing with each other in high-pitched, lispy tones of voice. Their clothing in some instances consisted of "a bulky mohair-type sweater, tight-fitting trousers, sandals or sneakers or perhaps oxford shoes, loafers." They used a limp-wrist action, sipping their drinks; and in conversation they fluttered and rolled their eyes at each other. When walking, their hips would swish from side to side in an effeminate manner.

Agents H and S, pursuant to assignment, next visited the licensed premises on August 19, 1965, at about 9:20 p.m. and remained on the premises for about two hours. During this period they noted that there were about twenty to twenty-five patrons, of whom all were male, except for two females. Of these about twenty attracted their attention because they appeared to be males impersonating females, or homosexuals. On this occasion the males "wore sandals or white sneakers with no socks, very tight-fitting pants, bulky mohair sweaters with no T-shirt underneath. Several of the males wore their hair long and apparently combed up and around the back rather than parted as most males would." Their actions and mannerisms were "affected and feminine in appearance in that the limp-wrist motions, the tucked-in elbow, the small steps and swishing or rolling gait to exaggerate hip motion was used as they walked about the premises." Endearing terms such as "Dear, Sweets and Darling" were frequently used, and one male specifically referred to another male as "Darling."

Agent S engaged in conversation with the bartender and asked him where all these "fags" come from. Replied the bartender, "Beats me. I don't know, but I really wish they would go

away. It gets to be kind of a drag after a while."

The final visit to these premises was made by Agents D and H on Friday, September 10, 1965, at approximately 10:15 p.m., and the agents remained at the premises until 1:45 a.m. on Sunday, September 11. Upon entering the premises they noted that there were two bartenders (subsequently identified as John Schultz, who was the acting manager of these premises, and John Gunzer), who were serving approximately twenty male patrons at the bar. The patronage increased so that at the height of activity there were sixty male patrons and two female patrons. The two female patrons appeared to be lesbians, while over ninety per cent. of the males appeared to be males impersonating females, or homosexuals. Some of these apparent homosexuals were dressed in very tight-fitting chino pants, bulky mohair sweaters, brightly colored sports shirts and white sneakers. Several of these persons appeared "to wear powder on their face to lessen any effect of a day-old beard. I noticed that at least two of these males obviously had had their eyebrows plucked and repencilled with eyebrow pencil. A smell of perfume. By this I don't mean after-shaving lotion. Perfume, female perfume, was very obvious."

Agent H described their actions and conduct as follows: They took very small steps; they "moved their hips in rather an exaggerated motion and kept their hands very tight to their sides although often stood with, say, one hand on the hip while walking." He noted also their limp-wrist motion while talking or drinking; they held their cigarettes in a rather delicate fashion with the smaller two fingers raised. They would occasionally touch the face of the other person to whom they were speaking; "their voices were very affected, in that they were obviously trying to imitate a female inflection or feminine inflection of voice." Such terms as "Dear and Sweetie" when referring to other males were used quite frequently. There was also occasional hand-holding and frequent blowing of kisses from one male to another which would be received by the recipient in a girlish manner by lowering or fluttering the eyelashes and smiling.

At approximately 1 a.m. Agent H approached a bearded male person who was seated near the door. It was assumed that he was an employee because he was seen ejecting or barring the entry of several persons. This person (later identified as C. Wallace O'Donnell) was a bouncer employed by the licensee. Agent H opened the conversation by saying, "My friend and I really goofed tonight. We came here looking for girls." Replied O'Donnell, "You sure did. You'll never find any in here." And then, "Well, why did you stay here? How come you stuck around so long?" The conversation continued with Agent D joining in and asking, "Where do all these queers come from?" O'Donnell then said to Agent D, "Tell me, were you getting that creepy feeling?" Agent D answered, "Yes, I was. I really felt surrounded over there with all those fags." Replied O'Donnell, "I know just how you feel, I feel the same way myself sometimes being surrounded by these guys. That's why I don't mind sitting over here by the door." O'Donnell then added, "Have a seat. It's a pleasure talking to a couple of straight guys for a change." He was then asked where all these people come from and he responded, "They come from all over, Montreal, Florida, New York. This is practically a headquarters for these guys." O'Donnell then explained that his duty was to keep out "the more apparent stewed bums, the drunks that tried to gain entry, two of whom he had already ejected." He further added, with respect to the licensee's operation, "I guess they've got a good thing going and they want to keep it." O'Donnell also explained that the main reason he got the job, beside the fact that he was tall, was that he had a full beard and he was informed that a straight male wearing a full beard would attract homosexuals to these premises. During the

course of their conversation with O'Donnell they were interrupted when O'Donnell barred entry to some obviously intoxicated persons.

At about 1:30 a.m. on September 11 the agents identified themselves and explained to O'Donnell that it was a violation to permit the congregation of homosexuals on the premises. O'Donnell answered, "I knew that. I was aware of that." At this point a person, who identified himself as Thomas ---, approached the agents. He was a person about twenty-four years of age, built slenderly, had a fair complexion, blonde hair, and affected a high-pitched voice similar to those of the other male patrons. The agents informed him that the congregation of apparent homosexuals was a violation. Thomas --- said, "Oh dear, Mother has had it." He explained the "mother" as being a reference to the bar. Then he said, "What's wrong with being a homosexual? Everybody in here is one. In fact, I'm president of both societies."

Several minutes later, Mark Weintraub (the president of the corporate licensee) entered the premises and was apprized of the alleged violation. He then said, "Well, point out a homosexual to me and I will throw him out of here." When the agents called his attention to the fact that ninety-five per cent. of the patrons at that time appeared to be homosexuals, including the two females who were seated at the bar, he then said, "Well, maybe they are, but at least they're very well behaved," and added, "We don't allow any drag in here ... we don't allow any fooling around."

The only witness produced on behalf of the licensee was Doctor Wardell B. Pomeroy, a practicing psychologist and former Director of Field Research at the Kinsey Institute, Bloomington, Indiana. Dr. Pomeroy discoursed in detail on the nature of homosexuals and homosexual behavior based upon his studies of sexual conduct. He suggested that there are changing attitudes toward the homosexual, and "we find a more acceptance attitude in 1966 than we did in 1946. Our culture appears to be changing in the direction of being more accepting of the homosexual." In detailing the characteristics of the homosexual he described their recognized manifestation as "the way they dress, the way they move their hands and feet, the way they walk, their voice and so on." He also admitted that, if he saw two males looking into each other's eyes or walking into a tavern, holding hands lightly or walking with a swishing or swaying movement, these also would be identifiable manifestations. He was then asked the following:

"Q And if you were to go into a tavern or into any room or into any place and if you saw a large number of these persons with these identifiable manifestations, would you come to an opinion that they were apparent homosexuals?

A I think I would, yes."

He then emphasized that in his opinion the congregation of these homosexuals in a tavern would be "of benefit to the surrounding community, to the culture, to keep them from cruising on the streets, in the parks ...," explaining that "these men are going to be more likely to cruise in other places that might be more offensive to the public such as in toilets, in the subways, in parks, streets, and that this is a better solution to their need and interest in congregating together than any other solution we can think of;" adding that this was the best method of containing and controlling these individuals.

The psychologist agreed that the use of alcohol tends to make people more relaxed and less inhibited, and that it is likely that a heterosexual person who may have underlying homosexual tendencies, which are dormant, might have those tendencies come to the fore after imbibing alcoholic beverages. I then asked this witness the following question:

"The Hearer: Now, did I understand you correctly also, Doctor, to say that you would prefer that the homosexuals congregate in a tavern because, by so doing, they might not frequent places such as public toilets or parks or Turkish baths?

The Witness: I didn't include Turkish baths.

The Hearer: I believe you said bath. I don't believe you used the word Turkish. That's true. Did I understand you to say that, that this would be perhaps a substitute for their going to these other places?

The Witness: This is a possibility, yes.

The Hearer: And in that respect do you consider that it would be socially desirable, that they be permitted to congregate in taverns?

The Witness: Yes."

In further questioning this witness as to the effect that congregation of such homosexuals would have upon normal young people coming into the tavern, the psychologist said that they had a choice of either remaining or leaving; that, if they decided to remain, "perhaps they were amused, perhaps they were interested in this sort of behavior." He reasoned that, since these persons would have the alternative of either remaining or leaving, the effect of such congregation would not be socially undesirable.

As was pointed out hereinabove, the factual narrative and observations of the Division's witnesses remain uncontroverted and unchallenged by the licensee because no witnesses were produced to rebut such testimony. Thus the quantitative effect on the Division's testimony remains unchallenged and must be accepted as true. The only real challenge is as to the qualitative substance of such testimony, and valid legal conclusions to be drawn therefrom.

In a memorandum submitted by counsel for the licensee in summation, the following asserted arguments are raised in support of dismissal of the said charge: (1) that the charge was brought under the wrong rule of Regulation No. 20; (2) that there was no satisfactory evidence in the record to establish homosexuals were upon the premises; (3) even if there were such evidence, there is nothing in the law designating homosexuality as a crime; (4) there is no evidence in the records establishing the existence of a nuisance; (5) that the licensee's constitutional rights would be violated if it were required to prevent the congregation of homosexuals, and (6) that the licensee would be committing an illegal act by barring such persons from licensed premises.

In answer to these arguments it might be well to state certain applicable principles which have become well settled in the administration of the Alcoholic Beverage Law, and the conduct and supervision of licensed premises. The liquor business must be carefully supervised and tightly restrained in the public interest, in accordance with the manifest design of the Alcoholic Beverage Act. In re Olympic, Inc., 49 N.J. Super. 299. A liquor license is a mere privilege. Paul v. Gloucester County, 50 N.J.L. 585; Mazza v. Cavicchia, 15 N.J. 498. As the court said in Benedetti v. Trenton, 35 N.J. Super. 30, at p. 35:

"In the public interest, the right to prescribe the conditions under which intoxicants may be sold is practically limitless."

Judge Jayne, speaking for the court in In re 17 Club, Inc., 26 N.J. Super. 43, at p. 52, said:

"The governmental power extensively to supervise the conduct of the liquor business and to confine the conduct of that business to reputable licensees who will manage it in a reputable manner has uniformly been accorded broad and liberal judicial support."

And as was pointed out in Re Polka Club Inc., Bulletin 1045, Item 6:

"Rigid enforcement of the regulations ... is essential to the preservation of decency and the protection of the public morals"

The fundamental answer to the asserted contention that there is no satisfactory evidence in the record to establish that homosexuals were upon the licensed premises is contained in the expressed opinion of the ABC agents, who have had a considerable background of experience in the investigation of charges of alleged homosexual activity; their testimony lends sufficient support to this charge. Their opinions can be compared to that of persons testifying as to their observations of apparently intoxicated persons. It has been consistently held by this Division and the courts that it is not necessary to be a doctor or medical expert in order to testify as to whether a person is apparently intoxicated. It is well-established that whether a man is sober or intoxicated is a matter of common observation, not requiring any special knowledge or skill. Castner v. Sliker, 33 N.J.L. 95; McHugh v. Borough of Hasbrouck Heights, 144 Atl. Rep. 799; Re Sullivan, Bulletin 1450, Item 4; Re Hoover, Bulletin 1521, Item 1, aff'd App.Div. Nov. 22, 1963 (not officially reported).

In fact, the expert witness for the licensee admitted that, on the basis of the description of these individuals given by the Division's witnesses, their conduct, mannerisms, dress and so forth, he would have concluded that these persons were apparent homosexuals. Additionally, the evidence is abundantly clear that the licensee's employees, including its president, knew that these premises were a hangout for these apparent homosexuals. Weintraub, according to the agent's testimony, felt that, as long as they behaved themselves, it was permissible to have them congregate; and O'Donnell, more elaborately, pictured these apparent homosexuals as being attracted to these premises from such places as Canada, New York and other distant places. It is obvious that under these circumstances the description given of these patrons by the Division agents, similarly identified by the licensee's own witnesses and reinforced by the admissions of the licensee's employees, unmistakably establishes without the necessity of specific pinpointing by the agents that there was a congregation of these apparent homosexuals.

One further point: It is not necessary to prove that these individuals were in fact homosexuals. The charge clearly delineated that there was a congregation of apparent homosexuals, which is sufficient to sustain the said charge.

As the court stated in Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, 46 N.J. Super. 405 (App.Div. 1957):

"If the evidence here failed adequately to prove that the described patrons were in fact homosexuals,

it certainly proved that they had the conspicuous guise, demeanor, carriage, and appearance of such personalities. It is often in the plumage that we identify the bird. The psychiatrist constructs his deductive conclusions largely upon the ostensible personality behavior and unnatural mannerisms of the patient."

Cf. Re Murphy's Tavern, Inc., Bulletin 1374, Item 2.

In this connection it might be well to note that the court stated in Murphy's Tavern, Inc. v. Division of Alcoholic Beverage Control (App.Div. 1961), 70 N.J. Super. 87 (reprinted in Bulletin 1395, Item 3):

"It should not be thought that the court is callous to the problem of the homosexual, medically or socially. The public interest in tight control over the liquor business, In re Olympic, Inc., 49 N.J. Super. 299, 306 (App.Div. 1958), certification denied 27 N.J. 279 (1958), involves, however, neither the curative approach of the physician nor the analytical view of the sociologist. The primary concern in this regard is maintenance of accepted standards of public decency and morality, and when these standards are, as here, impinged upon, proper sanctions are not only justified but are demanded."

We next come to the matter of the congregation of these apparent homosexuals. This Division and the court have held that the congregation of persons manifesting these characteristics is sufficient foundation for an inference as to their actual condition and tendencies, and warrants punishment of any licensee who acquiesces in their assemblage upon his premises. Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, *supra*. Such a result is justified by the Division's policy, supported in law and in its own long-term practice of thwarting reasonably apprehended sexual misconduct upon licensed premises in its embryonic stages. Cf. In re Schneider, 12 N.J. Super. 449 (App.Div. 1951), and Murphy's Tavern, Inc. v. Division of Alcoholic Beverage Control, *supra*.

The authority is well established for the premise that overt acts need not be committed nor are they the true measure in determining whether the pertinent rule has been violated. It has been consistently held that the congregation of such persons on liquor licensed premises constitutes a nuisance and, as such, is in violation of Rule 5 of State Regulation No. 20. As was stated in Re Hoover, Bulletin 1521, Item 1:

"Proper liquor control, bearing in mind that our primary responsibility is to protect the public welfare, dictates that the congregating of homosexuals or apparent homosexuals or males impersonating females on licensed premises be staunchly prohibited. The situation disclosed by the records in this case constitutes a nuisance and, as such, is a clear violation of Rule 5 of State Regulation No. 20 as alleged in the charge."

See also Carelis v. Division of Alcoholic Beverage Control, Bulletin 1393, Item 2 (aff'd by Appellate Division on Dec. 21, 1961, not officially reported, reprinted in Bulletin 1430, Item 1).

This is the significant reply to the contention of licensee's counsel that the charge should have been brought under Rule 4 rather than Rule 5 of State Regulation No. 20. The distinction here is the misconduct of permitting apparent homosexuals, as hereinabove described, to habitually and in inordinate numbers

(on several occasions as many as 150) congregate at the tavern. It is this proscribed activity which constitutes a nuisance within the contemplation of the rule. Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, *supra*; Re Kaczka & Trobiano, Bulletin 1063, Item 1; Re Rutgers Cocktail Bar, A Corp., Bulletin 1133, Item 2.

Furthermore, I must reject the contention of the licensee's witness that normal persons entering into licensed premises accommodating a large congregation of apparent homosexuals had the alternative of either remaining or leaving the premises; that, if they remained, they were probably amused or had some other reason for so doing. The fact is that such congregation and conduct, as described by the Division's witnesses, may have a harmful effect on some members of the public and, thus, are a threat to the safety and morals of the public; and these persons should not be required to make the alternative decision as to whether to remain or leave. The careful supervision of the liquor business in the public interest requires that it be free from any such immoral acts or conduct which are contra bonos mores. In re Schneider, *supra*. I consider as tenuous, useless and without merit this witness' thesis that, unless these apparent homosexuals are contained or controlled in a tavern, they might express anti-social acts in the public toilets, parks or bath-houses. The tavern is not the proper place to contain or control such persons within the concept of the Alcoholic Beverage Law for the obvious reasons as expressed hereinabove.

We pass to consider counsel's contention that the licensee's constitutional rights would be violated, and it would be committing an illegal act in refusing to sell or serve liquor to the congregation of such individuals. This argument was disposed of in Re One Eleven Wines & Liquors, Inc., Bulletin 1656, Item 5. In that case the Director cited Re Plaza Hotel-O'Leary, Bulletin 188, Item 9, to the effect that a tavern owner may not refuse service to an individual because of his race, creed or color or for some cause or reason not "applicable alike to all citizens of every race, creed and color, and regardless of race, creed or color, or of previous condition of servitude", citing Shubert v. Nixon Amusement Co., 83 N.J.L. 101 (Sup.Ct. 1912). It was held that a licensee has an absolute right to refuse to sell or serve liquor to an unlawful congregation provided such refusal is not based on race, creed or color. He further pointed out that "The reason for this is that tavern keepers, like all liquor licensees, have great responsibilities under the law ...", and further citing Re Rollka, Bulletin 142, Item 4:

"The licensee is Master of his tavern. He who is responsible for the conduct of it has the right to decide for himself what behavior he shall permit."

He further cited State v. Lynch, 23 N.J.L.J. 45, wherein Judge, afterwards Justice, Fort held that a saloon was not a public place within the meaning of that term in "An Act Concerning Disorderly Persons." The court said:

"A saloon is not a public place. No one has a right to be or remain therein if the proprietor objects to his being there. Persons there, as in any other place of business, are mere licensees, subject to be ejected at the will of the proprietor."

See State v. Colgan (Sup.Ct. 1919), 92 N.J.L. 307.

The proposition that the congregation of apparent homosexuals may not be barred from licensed premises is frivolous,

and has most recently been rejected in Re Jo-Stem Corporation, Bulletin 1625, Item 2. To the same effect, see Re Kaczka & Trobiano, supra; Re V.M. & S., Inc., Bulletin 1345, Item 6; Re Bader, Bulletin 1073, Item 4.

I therefore conclude that the constitutional rights of this licensee have not been violated and that it would not be performing an illegal act in refusing to serve such patronage. Indeed, it would be acting in consonance with the Alcoholic Beverage Law in barring the congregation of apparent homosexuals.

The evidence sustains the conclusion that not only was this type of patronage not barred but was, indeed, encouraged, and these licensed premises appear to have gained quite a reputation far and wide as a place where such patronage was wholeheartedly welcomed.

After reviewing the entire record and the written argument of counsel, I conclude that the Division has established the truth of this charge by a fair preponderance of the believable evidence -- indeed, by substantial evidence -- and I recommend that the licensee be found guilty of said charge.

Although the licensee corporation has no previous record of suspension of license, the license then held by K & K Corp. for the same premises, in which Mildred S. Kusek (a 1% stockholder of the licensee corporation and holder of a purchase price security agreement) was the holder of five of eleven shares of stock, was suspended by the municipal issuing authority for twenty-five days effective February 8, 1953, for sale to minors and by the Director for fifty-five days effective October 6, 1964, for permitting apparent homosexuals on the licensed premises. Re K & K Corp., Bulletin 1588, Item 3.

It is therefore recommended that the prior record of suspension of license of K & K Corp. (to which the licensee corporation is linked by the stockholding and security interest of Mildred S. Kusek -- cf. Re Jervic, Inc., Bulletin 1603, Item 5; Re White Poodle, Inc., Bulletin 1530, Item 4; Re C.A.R. Corporation, Bulletin 1574, Item 8) for dissimilar violation in 1953 occurring more than five years ago be disregarded but that the prior record of suspension of license for similar violation occurring in 1964 within the past five years be considered, and that the license be suspended for one hundred twenty days. Re Charmac, Inc., Bulletin 1637, Item 1.

Conclusions and Order

Exceptions to the Hearer's report and argument thereto were filed by the licensee's attorney, pursuant to Rule 6 of State Regulation No. 16.

I find that the matters contained in the exceptions had been considered in detail by the Hearer in his report and that they are without merit. Consequently, having considered the entire record herein, including the exceptions filed, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions.

Accordingly, it is, on this 9th day of June, 1966,

ORDERED that Plenary Retail Consumption License C-225, issued by the Board of Commissioners of the City of Atlantic City to Val's Bar, Inc., t/a Val's Bar, for premises 114 S. New York Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1966, commencing at 7:00 a.m. Thursday, June 16, 1966; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7:00 a.m. Friday, October 14, 1966.

JOSEPH P. LORDI,
DIRECTOR.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Mary Maione)
t/a Jim's Tavern)
Route #130)
Bordentown, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Bordentown.)
-----)

James F. McGovern, Jr., Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 20, 1966, she sold mixed drinks of alcoholic beverages to two minors, age 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Licensee has a record of suspension of license by the Director for ten days effective May 31, 1966 (currently in effect and terminating at 2:00 a.m. June 10, 1966) for similar violation. Re Maione, Bulletin 1682, Item 6.

The prior record of suspension for similar violation within the past five years considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Fun Fair Bowl, Bulletin 1625, Item 6.

Accordingly, it is, on this 8th day of June, 1966,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Bordentown to Mary Maione, t/a Jim's Tavern, for premises on Route #130, Bordentown Township, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Friday, June 10, 1966, and terminating at 2:00 a.m. Thursday, June 30, 1966.

JOSEPH P. LORDI,
DIRECTOR.

3. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION.

In the Matter of Disciplinary Proceedings against)

172 Corp., t/a Fort Pitt Cafe,)
170 South New York Avenue)
Atlantic City, N. J.)

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the City of Atlantic City.)
-----)

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1763

November 29, 1967

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1763

November 29, 1967

1. COURT DECISIONS - ONE ELEVEN WINES & LIQUORS, INC., VAL'S BAR, INC. AND MURPHY'S TAVERN, INC. v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR REVERSED WITHOUT PREJUDICE.

SUPREME COURT OF NEW JERSEY

Nos. A-8, A-9 and A-10 - September Term 1967

ONE ELEVEN WINES & LIQUORS, INC.,)
a New Jersey corporation,)

Appellant,)

v.)

DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL and JOSEPH P. LORDI,)
Director, etc.,)

Respondents.)

VAL'S BAR, INC., a New Jersey)
Corporation,)

Appellant,)

v.)

DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL and JOSEPH P. LORDI,)
Director, etc.,)

Respondents.)

MURPHY'S TAVERN, INC.,)

Appellant,)

v.)

DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL,)

Respondent.)

Argued September 11 and 12, 1967. Decided November
6, 1967

On certification by the Supreme Court.

Mr. Theodore Sager Meth argued for the appellant
One Eleven Wines & Liquors, Inc. (Messrs. Busch &
Busch, attorneys).

Mr. Norman A. Oshtry of the Pennsylvania Bar
argued for the appellant Val's Bar, Inc.
(Messrs. Jacobson & Silverman, attorneys).

Mr. Louis R. Cerefice argued for the appellant Murphy's Tavern, Inc.

Mr. Stephen Skillman, Deputy Attorney General, argued for the respondents Division of Alcoholic Beverage Control and Joseph P. Lordi, Director, etc. (Mr. Arthur J. Sills, Attorney General of New Jersey, attorney; Mr. Richard Newman and Mr. Michael Rudolph, Deputy Attorneys General, on the brief).

Mr. Avrom J. Gold, attorney for F. & A. Corporation, and Messrs. Diamond and Pitman, attorneys for the Mattachine Society, Inc., filed briefs amicus curiae.

The opinion of the Court was delivered by JACOBS, J.

The Division of Alcoholic Beverage Control disciplined the appellants for permitting apparent homosexuals to congregate at their licensed premises. It suspended the licenses of One Eleven Wines & Liquors, Inc. and Val's Bar, Inc. and revoked the license of Murphy's Tavern, Inc. (Re One Eleven Wines & Liquors, Inc., Bulletin 1656, Item 5; Re Val's Bar, Inc., Bulletin 1685, Item 1; Re Murphy's Tavern, Inc., Bulletin 1677, Item 1.) On One Eleven's appeal to the Appellate Division the suspension of its license was sustained under the authority of Paddock Bar, Inc. v. Alcoholic Beverage Control Div'n., 46 N.J. Super. 405 (App.Div. 1957) and Murphy's Tavern, Inc. v. Davis, 70 N.J. Super. 87 (App.Div. 1961). (One Eleven Wines & Liquors, Inc. v. Div. of Al. Bev. Contr., Bulletin 1695, Item 1.) We granted certification on the licensee's application. 48 N.J. 349 (1966). (Re One Eleven Wines & Liquors, Inc., Bulletin 1697, Item 2.) We also certified, on our own motion, the appeals which had been duly taken to the Appellate Division by Val's Bar and Murphy's Tavern and were awaiting argument there. R.R. 1:10-1.

The disastrous experiences of national prohibition led to the adoption of the twenty-first amendment and to the return of liquor control to the states in 1933. See Grand Union Co. v. Sills, 43 N.J. 390, 399 (1964). When our Legislature during that year first created the Department of Alcoholic Beverage Control, it vested broad regulatory powers in a state commissioner who immediately set about to insure that abuses which had originally contributed so heavily in bringing about national prohibition, would not be permitted to recur. He adopted stringent regulations which he rigidly enforced and which the courts supported with great liberality. See Franklin Stores Co. v. Burnett, 120 N.J.L. 596 (Sup.Ct. 1938); Gaine v. Burnett, 122 N.J.L. 39 (Sup.Ct. 1939). He concerned himself not alone with matters of lawfulness but also with matters of public sensitivity for he firmly believed that the effectiveness of the new mode of control would turn on the extent of the public's acceptance of the manner in which licensed establishments were conducted. Here again the courts sustained his pertinent regulatory actions with broad sweep. See McFadden's Lounge v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 61 (App.Div. 1954); Paddock Bar, Inc. v. Alcoholic Beverage Control Div'n., supra, 46 N.J. Super. 405.

Among the commissioner's early regulations were Rules 4 and 5 which were adopted in 1934. Rule 4 provided that no licensee shall allow in the licensed premises "any known criminals, gangsters, racketeers, pick-pockets, swindlers, confidence men,

prostitutes, female impersonators, or other persons of ill repute." And Rule 5 provided that no licensee shall allow "any disturbances, brawls, or unnecessary noises" or allow the place of business to be conducted "in such manner as to become a nuisance." In 1936 Rule 5 was revised to include an express prohibition of "lewdness" and "immoral activities," and in 1950 it was again revised to include an express prohibition of "foul, filthy, indecent or obscene language or conduct." See McFadden's Lounge v. Div. of Alcoholic Bev. Control, supra, 33 N.J. Super. at 64; Jeanne's Enterprises, Inc. v. State of N.J., etc., 93 N.J. Super. 230 (App.Div.), aff'd, 48 N.J. 359 (1966).

During the years prior to 1954 the department instituted proceedings under Rule 4 on the basis of evidence that apparent homosexuals had been permitted to congregate at the licensed premises. Apparently the department considered that the effeminate manifestations of the patrons brought them within the prohibition of "female impersonators" although that term relates more properly to transvestites who are, for the most part said to be non-homosexuals. In Re M. Potter, Inc., A.B.C. Bulletin 474, Item 1 (August 7, 1941) the investigators had observed a group of male patrons, "whose voices, gestures and actions were effeminate," dancing and kissing among themselves. Although there was an express finding that "no actual acts of immorality" were committed at the licensed premises, the license was nonetheless suspended. In the course of his formal opinion, the acting commissioner said that the mere "presence of female impersonators in and upon licensed premises presents a definite social problem"; and in line with the then widespread intolerance and limited public understanding of the subject, he made reference to "the deep-rooted personal contempt felt by a normal red-blooded man" and to the notion that "the mere thought of such perverts is repugnant to the normal person."

Since 1954 and despite increasing public tolerance and understanding, departmental proceedings aimed at the congregation of apparent homosexuals have continued apace but have been brought under Rule 5 rather than Rule 4. They have not been based on any specific and individualized charges of lewd or immoral conduct but rather on general charges that by permitting the apparent homosexuals to congregate, the licensees had allowed their places of business to be conducted in such manner "as to become a nuisance" within the contemplation of Rule 5. In Re Polka Club, Inc., A.B.C. Bulletin 1045, Item 6 (December 27, 1954) the then director, in suspending a license on a charge of violation of Rule 5, said that he would not permit licensed premises to become "havens for deviates." In Re Kaczka and Trobiano, A.B.C. Bulletin 1063, Item 1 (April 21, 1955) the licensee introduced expert testimony that homosexuality is not contagious and that seeing groups of homosexuals would not affect normal people but the license was nonetheless suspended. As illustrated in many of his rulings, including Re Louise G. Mack, A.B.C. Bulletin 1088, Item 2 (November 2, 1955), the director entertained the view that since exposure to homosexuals might be harmful to "some members of the public" the congregating of homosexuals must be prohibited as a "threat to the safety and morals of the public." See Paddock Bar, Inc. v. Alcoholic Beverage Control Div'n., supra, 46 N.J. Super. at 408.

In the very cases before us the Division of Alcoholic Beverage Control made it clear that it has not in anywise moderated its long standing position that permitting the congregation of apparent homosexuals, without more, is violative of Rule 5. The evidence against Murphy's Tavern disclosed many individual acts which could have been the basis of specified and individualized charges of lewd or immoral conduct at the licensed premises. But no such charges were preferred and when,

during the course of cross-examination, one of the division's investigators was asked whether he had observed any lewdness at Murphy's Tavern, the prosecuting attorney pointed out that the division had not alleged "any immoral activity or lewdness itself" but had simply alleged that the licensee had "permitted the licensed place of business to become a nuisance" in that it had allowed "these persons to come in and congregate upon the premises."

In the One Eleven proceeding there was no charge and no substantial evidence that lewd or immoral conduct was permitted at the licensed premises. There was a charge and sufficient evidence that the licensee had permitted apparent homosexuals to congregate there. Investigators had visited the premises on several occasions and had observed the patrons; the testimony included the following partial account of their behavior:

They were conversing and some of them in a lisping tone of voice, and during certain parts of their conversations they used limp-wrist movements to each other. One man would stick his tongue out at another and they would laugh and they would giggle. They were very, very chummy and close. When they drank their drinks, they extended their pinkies in a very dainty manner. They took short sips from their straws; took them quite a long time to finish their drink.***

They were very, very endearing to one another, very very delicate to each other.***

They looked in each other's eyes when they conversed. They spoke in low tones like an effeminate male. When walking, getting up from the stools, they very politely excused each other, hold on to the arm and swish and sway down to the other end of the bar and come back.***

Their actions and mannerisms and demeanor appeared to me to be males impersonating females, they appeared to be homosexuals commonly known as queers, fags, fruits and other names.

Similarly in the proceeding against Val's Bar there was no charge nor any substantial evidence at the hearing before the director that lewd or immoral conduct was permitted at the licensed premises. Investigators had visited the premises on several occasions and testified in detail as to the behavioral characteristics which led them to the permissible conclusion that the patrons were apparent homosexuals. See 7 Wigmore, Evidence § 1974 (3d. ed. 1940); Tyree, The Opinion Rule, 10 Rutgers L.Rev. 601 (1956); cf. State v. Campisi, 23 N.J. 513, 520 (1957); State v. Guerrido, 60 N.J. Super. 505, 511 (App.Div. 1960). The investigators acknowledged that for the most part the patrons were "normally dressed" and showed "very good behavior." Dr. Wardell B. Pomeroy, called as an expert witness by the licensee, testified that, although it could not be said from mere observation that any given individual was a homosexual, he would be of the opinion that tavern patrons with the characteristics described by the investigators were apparent homosexuals.

Dr. Pomeroy was associated with the Kinsey Institute for twenty years and was the co-author of several books dealing with sexual behavior and offenses. He referred to the Kinsey studies which contained startling indications that 13% of the males in the country were "more homosexual than heterosexual" and that 37% had "at least one homosexual experience to the point of

orgasm in the course of their life." He also referred to indications that 55% of the population was neutral on the subject of homosexuality and there is now "a more acceptance attitude" than there was twenty years ago. See Mosk, Foreword to The Consenting Adult Homosexuals and the Law, 13 U.C.L.A. L.Rev. 644, 645 (1966). In response to an inquiry by the division's hearer, Dr. Pomeroy voiced the opinion that no adverse social effects would result from permitting homosexuals to congregate in licensed establishments. He noted that non-homosexuals would not be harmed by being in the same premises with homosexuals, and that any who found their mere presence to be offensive would presumably leave. He expressed the view that permitting their congregation in taverns would tend to eliminate clandestine associations in unregulated and unsupervised places of public nature. See Cory and LeRoy, The Homosexual and His Society 119, 121 (1963); see also Schur, Crimes Without Victims 86, 87 (1965) where Dr. Schur dealt with the so-called "gay" bars operating in our neighboring states and elsewhere:

Although such establishments are sometimes condemned as breeding grounds of homosexuality, the charge is not convincing. Most of the people who go there (apart from tourists and some "straight" friends) already are involved in the homosexual life. Anyone who wanders in and who is offended by what he sees is perfectly free to leave. The authors of a recent "view from within" emphasize that although an increase in homosexuality may increase the demand for homosexual bars, the bars can scarcely be said to produce homosexuals. Indeed, as these writers go on to suggest, the bars serve to keep homosexuals "in their place"--out of more public places and, to a certain extent, beyond the public view.*

The views expressed by Doctors Pomeroy and Schur find significant legal support in various judicial holdings, notably those of the California Supreme Court. In Stoumen v. Reilly, 37 Cal.2d 713, 234 P.2d 969 (1951) the license was suspended because the licensee had permitted "persons of known homosexual tendencies" to patronize and meet at the licensed premises. Under Section 58 of the California Alcoholic Beverage Control Act, it was unlawful to permit the licensed premises to be conducted as a disorderly house or as a place "to which people resort for purposes which are injurious to the public morals, health, convenience or safety." The court, in setting aside the suspension, held that mere patronage "without proof of the commission of illegal or immoral acts on the premises, or resort thereto for such purposes" was not sufficient to show a violation of Section 58. Elsewhere in its opinion it stressed that in order to establish "good cause" for suspension of the license, something more must be shown than that many of the patrons were homosexuals and use the premises "as a meeting place." 234 P.2d at 971.

After the Stoumen case was decided, the California Legislature enacted the provision in section 24,200, subdivision (e) of the Business and Professions Code under which licensed premises were prohibited from being used as resorts for "sexual perverts." In Vallerga v. Dept. of Alcoholic Beverage Con., 53 Cal.2d 313, 1 Cal.Rptr. 494, 347 P.2d 909 (1959) a license was revoked because the licensee had permitted his premises to become a resort for homosexuals. The

*The authors referred to by Dr. Schur are Cory and LeRoy who at pages 121-22 of their book entitled The Homosexual and His

Society had this to say:

It can be argued that gay bars spread homosexuality and the elimination of them will help arrest this development. However, people who argue this way usually have little or no understanding of the problem and know very little about such bars. Most of those who go to gay bars are already homosexual and those who are not have no interest in remaining in these places for long, and seldom return. It is difficult to imagine a person walking into a gay bar and becoming homosexual, if he had not already been favorably disposed to such activity.

revocation was set aside by the California Supreme Court which held that the legislative provision was unconstitutional under Stoumen. The court also considered the contention that, apart from the provision declared unconstitutional, the revocation could be sustained on the ground that continuance of the license would be "contrary to public welfare and morals" within the lower court holdings in Nickola v. Munro, 162 Cal.App.2d 449, 328 P.2d 271 (1958) and Kershaw v. Department of Alcoholic Beverage Control, 155 Cal.App.2d 544, 318 P.2d 494 (1957); in this connection it said:

In the Nickola case the court held generally that seeking sexual gratification in a public tavern with another of the same sex would offend the moral sense of the general public. The court stated, 162 Cal. App.2d at page 457, 328 P.2d at page 276: "There are many things that can be done in the privacy of the home which may not be illegal, but if done in a public tavern are directly offensive to public morals and decency, and demonstrate that the participants are sex perverts. The continuance of the license under such circumstances 'would be contrary to public welfare or morals' as provided in our Constitution. * * * Further than that we do not have to go." Conduct which may fall short of aggressive and uninhibited participation in fulfilling the sexual urges of homosexuals, reported in some instances (See Kershaw v. Department Alcoholic Bev. Control, supra, 155 Cal.App.2d 544, 547-548, 318 P.2d 494), may nevertheless offend good morals and decency by displays in public which do no more than manifest such urges. This is not to say that homosexuals might properly be held to a higher degree of moral conduct than are heterosexuals. But any public display which manifests sexual desires, whether they be heterosexual or homosexual in nature may, and historically have been, suppressed and regulated in a moral society. 347 P.2d at 912.

The court in Vallerga was of the opinion that the record before it contained sufficient evidence of overtly offensive acts within the licensed premises upon which specific and individualized charges of conduct "contrary to public welfare or morals" could have been preferred against the licensee. But no such charges had been preferred and the only charge preferred, namely, permitting the premises to become a resort for homosexuals in violation of subdivision (e), was the one held by the court to be constitutionally infirm. The court's setting aside of the revocation was presumably without prejudice to the right to proceed against the licensee on specific and individualized charges and proof of overt acts within the licensed premises

offensive to "good morals and decency." See 347 P.2d at 913-14; cf. Sabes v. City of Minneapolis, 265 Minn. 166, 120 N.W.2d 871, 878 (1963).

While the New York cases contain obscurities, many of them seem to take an approach comparable to that taken by the California Supreme Court. Thus in People v. Arenella, 139 N.Y.S.2d 186 (N.Y.C. Mag.Ct. 1954) the court, in dealing with a criminal charge that a licensee had allowed his premises to become disorderly, differentiated cases deemed disorderly where the premises were frequented by homosexuals in "open and notorious manner, for the purpose of soliciting others to commit lewd and indecent acts" from others, not deemed disorderly, where the evidence established nothing more than that homosexuals patronized the premises without engaging in prohibited acts therein. 139 N.Y.S.2d at 189. Similarly in Kerma Restaurant Corporation v. State Liquor Authority, 27 A.D.2d 918, 278 N.Y.S.2d 951 (1966) the court, while sustaining the revocation of a license on the basis of solicitation and other overtly offensive acts within the licensed premises, acknowledged that the "mere congregation of homosexuals, where there is no breach of the peace, does not make the premises disorderly" within the meaning of New York's Alcoholic Beverage Control Law. 278 N.Y.S.2d at 952. See In re Farley, 217 N.Y. 105, 111 N.E. 479, 481 (1916); cf. Lynch's Builders Restaurant, Inc. v. O'Connell, 303 N.Y. 408, 103 N.E. 2d 531 (1952); Fulton Bar & Grill, Inc. v. State Liquor Authority, 11 A.D.2d 771, 205 N.Y.S.2d 37 (1960); Gilmer v. Hostetter, 20 A.D.2d 586, 245 N.Y.S.2d 252 (1963).

In Re Revocation of License of Clock Bar, Inc., 85 Dauphin County Reports 125 (Pa. 1966) the court sustained a suspension grounded on evidence of improper solicitations by homosexuals at the licensed premises. However, in the course of its opinion it pointed out there was "no law which forbids homosexuals from being patrons of licensed premises," that the mere, though open, congregation of homosexuals at the licensed premises would not sustain a charge that the licensee maintained "a disorderly house," and that homosexuals at licensed premises become objectionable only "when they make a nuisance of themselves" by improper solicitation or other overtly offensive conduct. 85 Dauphin County Reports at 131. See Cesaroni v. Smith, 202 A.2d 292 (R.I. 1964); but cf. Inman v. City of Miami, 197 So.2d 50 (Fla. Dist.Ct.App. 1967), petition for cert. filed, 36 U.S.L.W. 3163 (U.S. Oct. 11, 1967) (No. 717).

Though in our culture homosexuals are indeed unfortunates, their status does not make them criminals or outlaws. Cf. Robinson v. California, 370 U.S. 660, 8 L.Ed.2d 758 (1962). So long as their public behavior violates no legal proscriptions they have the undoubted right to congregate in public. And so long as their public behavior conforms with currently acceptable standards of decency and morality, they may, at least in the present context, be viewed as having the equal right to congregate within licensed establishments such as taverns, restaurants and the like. See Stoumen v. Reilly, *supra*, 234 P.2d at 971. In sustaining the suspension of One Eleven's license, the Appellate Division took the position that it was not concerned with the rights of the patrons since technically the legal issue before it was the validity of Rule 5 under which the license was suspended. But the asserted rights of the homosexuals to assemble in and patronize licensed establishments are intertwined with the asserted rights of licensed establishments to serve them. Surely in these circumstances, the licensees are properly to be viewed as having standing to seek vindication of the various rights involved in order that the Court's ultimate determination may soundly rest on the complete

mosaic Cf. Griswold v. Connecticut, 381 U.S. 479, 481, 14 L.Ed.2d 510, 512 (1965); NAACP v. Alabama, 357 U.S. 449, 458, 2 L.Ed.2d 1488, 1497 (1958); Barrows v. Jackson, 346 U.S. 249, 255, 97 L.Ed. 1586, 1594 (1953); Pierce v. Society of Sisters, 268 U.S. 510, 535, 69 L.Ed. 1070, 1078 (1925); Sedler, Standing to Assert Constitutional Jus Tertii in the Supreme Court, 71 Yale L.J. 599, 626 (1962).

The Division of Alcoholic Beverage Control, stressing the acknowledged constitutional and statutory breadth of its regulatory powers (Boller Beverages, Inc. v. Davis, 38 N.J. 138, 150 (1962); Guill v. Mayor and Council of City of Hoboken, 21 N.J. 574 (1956)), contends that the mere congregation of apparent homosexuals in taverns is contrary to the public welfare and may therefore reasonably be prohibited under its wide police powers. Cf. Jeanne's Enterprises, Inc. v. State of N.J., etc., supra, 93 N.J. Super. at 232. It points to the fact that the very term "apparent homosexuals" contemplates effeminate behavioral characteristics, such as those described earlier in this opinion, but apparently it concedes, as it must in the light of the times, that such behavioral characteristics without more, would not constitute overt conduct offensive to current standards of morality and decency. It expresses various fears which we have carefully considered but which lack significant support in the records before us or in the available materials on the subject.

Thus the division suggests that the presence of apparent homosexuals in so-called "gay" bars may serve to harm the occasional non-homosexual patrons who happen to stray there but it produces nothing to rebut the expert testimony or the published writings to the contrary. See Cory and LeRoy, supra at 121; Schur, supra at 87. It further suggests that offensive conduct by apparent homosexuals within the licensed premises "may lead to violence" against them by non-homosexuals but this ignores the licensee's comprehensive capacity and responsibility, at the peril of its license, for precluding offensive conduct and for conducting its establishment in lawful and orderly fashion. See In re Olympic, Inc., 49 N.J. Super. 299, 305-09 (App.Div.), certif. denied, 27 N.J. 279 (1958). Finally, it points out that it has consistently tried "to increase public respect and confidence in the liquor industry" (cf. X-L Liquors v. Taylor, 17 N.J. 444, 451 (1955)) and suggests that permitting the congregation of apparent homosexuals, even though carefully supervised, will impair such public respect and confidence. But here again it furnishes nothing affirmative in support of its position which appears to disregard the burgeoning movement towards greater tolerance and deeper understanding of the subject. See Mosk, supra, 13 U.C.L.A. L.Rev. at 645; Model Penal Code § 207.5, Comment (Tent. Draft No. 4, 1955).

When in the 1930's the Department of Alcoholic Beverage Control first took its severe position, it acted on the assumption that the mere congregation of apparent homosexuals had to be outlawed to achieve effective control. It of course had no experience to support the assumption but it took the prohibitory course as the safer one for the then fledgling system. At the time, the interests of the patrons in question were given little consideration and were in any event overwhelmed by the then highly felt transitional need for sweeping restraint. Now, in the 1960's, the transitional need as such is long past and it is entirely appropriate that full sweep be given to current understandings and concepts. Under them it seems clear that, so long as the division can deal effectively with the matter

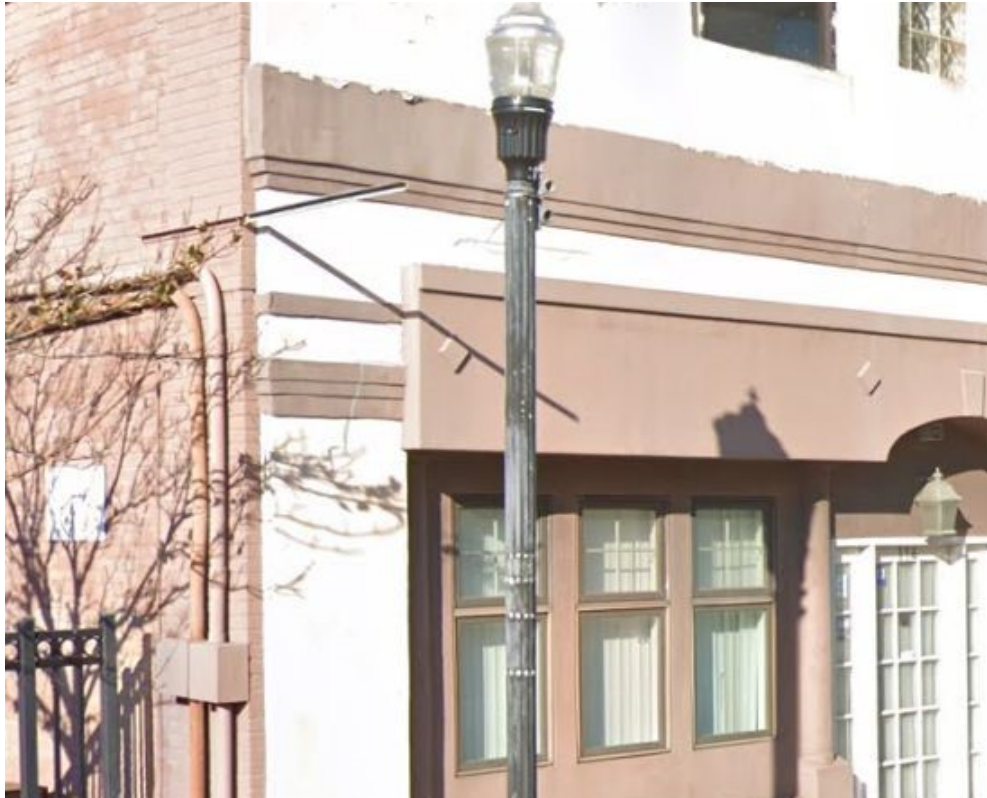
through lesser regulations which do not impair the rights of well behaved apparent homosexuals to patronize and meet in licensed premises, it should do so. Such narrower course would be consonant with the settled and just principle that restrictions adopted in the exercise of police powers must be reasonable and not go beyond the public need. See N. J. Good Humor, Inc. v. Bradley Beach, 124 N.J.L. 162, 168 (E. & A. 1940); Reingold v. Harper, 6 N.J. 182, 192 (1951); cf. Griswold v. Connecticut, supra, 381 U.S. at 485-86, 14 L.Ed.2d at 515-16; NAACP v. Alabama, 377 U.S. 288, 307, 12 L.Ed.2d 325, 338 (1964).

It must be borne in mind that the division has produced nothing to support any need for continuance of its flat prohibition. Nor has it produced anything to indicate that it could not readily prepare and enforce a fair and sensible regulation which, while permitting apparent homosexuals to assemble in and patronize licensed establishments, prohibits overtly indecent conduct and public displays of sexual desires manifestly offensive to currently acceptable standards of propriety. Such a regulation might well be adopted forthwith to the end that future proceedings would rightly be based on specific charges of improper conduct at the licensed premises rather than, as here, upon general charges of mere congregation which we deem to be unreasonable and legally unsupportable. In the meantime, the discipline imposed in the three cases before us must be set aside, without prejudice, however, to any new charges which the division may prefer against the licensees, or any of them, clearly describing the individual acts alleged to be violative of the provisions in Rule 5 aimed at lewd and immoral conduct within the licensed premises. See Vallerga v. Dept. of Alcoholic Beverage Con., supra, 347 P.2d at 913-14.

Reversed.

PROCTOR, J. (concurring)

Since the charges against the three taverns did not specify any particular offensive acts by the patrons, I concur with the majority opinion. However, I wish to emphasize that, although well-behaved homosexuals cannot be forbidden to patronize taverns, they may not engage in any conduct which would be offensive to public decency. In the record before us it appears that there was evidence of conduct (men kissing each other on the lips, etc.) which would form the basis for disciplinary action at least against One Eleven and Murphy's had they properly been charged. A tavern should not provide an arena for the behavior disclosed by this record. I appreciate that the majority opinion does not say that such conduct will be tolerated, but nonetheless I am expressing my positive view that it should not be.



STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N. J. 07102

BULLETIN 1671

APRIL 28, 1966

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New Jersey State Library

alcoholic beverages on the licensed premises. Therefore, I recommend that the licensee be found guilty of the charge preferred herein.

In view of the fact that the licensee has no prior record of suspension, it is further recommended that the license be suspended, because of the violation herein, for a minimum of twenty days. Re Lekas and Paroby, Bulletin 1659, Item 12.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the transcript of the proceedings and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 16th day of March 1966,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Mullica to Raymond Synakowski, t/a White House Tavern, for premises 349 White Horse Pike, Mullica Township, be and the same is hereby suspended for twenty (20) days, commencing at 3 a.m. Wednesday, March 23, 1966, and terminating at 3 a.m. Tuesday, April 12, 1966.

JOSEPH P. LORDI
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - FRONT - FALSE STATEMENTS IN LICENSE APPLICATION - LICENSE SUSPENDED FOR 20 DAYS - EFFECTIVE DATE OF SUSPENSION DEFERRED.

In the Matter of Disciplinary Proceedings against

172 CORP.

t/a FORT PITT CAFE

170 South New York Avenue
Atlantic City, N. J.

Holder of Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the City of Atlantic City.

CONCLUSIONS
AND ORDER

Angelo D. Malandra, Esq., Attorney for Licensee.
Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges as follows:

"1. You failed to file with the Board of Commissioners of the City of Atlantic City, within ten days after the occurrence hereinafter stated, written notice of change of facts set forth in your answer to Question No. 31 in your application dated June 11, 1963 filed with the Board of Commissioners of the City of Atlantic City, upon which you obtained your 1963-64 plenary retail consumption license, such change being that, on or about June 24, 1963, you agreed to permit Harvey Braverman to retain all the profits

derived from your licensed business after payment to you of a weekly fee; in violation of R.S. 33:1-34.

"2. You failed to file with the Board of Commissioners of the City of Atlantic City, within ten days after the occurrence hereinafter stated, written notice of change of facts set forth in your answer to Question No. 31 in your application dated June 10, 1964 filed with the Board of Commissioners of the City of Atlantic City upon which you obtained your 1964-65 plenary retail consumption license, such change being that, on or about June 27, 1964, you agreed to permit John Boyer to retail all the profits derived from your licensed business after payment to you of a weekly fee; in violation of R.S. 33:1-34.

"3. You knowingly aided and abetted the following persons, during the following periods to exercise, contrary to R.S. 33:1-26, the rights and privileges of your successive plenary retail consumption licenses: Harvey Braverman from on or about June 24, 1963 to on or about September 3, 1963, and John Boyer from on or about June 27, 1964 to on or about September 8, 1964; in violation of R.S. 33:1-52."

The facts are sufficiently set forth in the quoted charges. In addition, reports of investigation disclose that the unlawful situation has been corrected by its discontinuance with respect to the 1965-66 license.

Report of recent inspection discloses that the licensed business is not presently being conducted and that it is strictly a summer operation with the premises usually opened for business the third week in June and closed in the middle of September of each year.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective September 14, 1959, for sale to minors.

The prior record of dissimilar violation occurring more than five years ago disregarded, but the facts and circumstances as well as the plea entered considered, the license will be suspended for twenty days. Re The Sports Corner, Inc., Bulletin 1581, Item 7; Re Elvee Corporation, Bulletin 1651, Item 5.

In view of the current non-operation of the licensed business, no effective penalty can be imposed at this time. Hence, the effective dates for the suspension will be fixed by the entry of a further order herein after the operation of the licensed business has been fully resumed on a substantial basis.

Accordingly, it is, on this 17th day of March, 1966,

ORDERED that Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the City of Atlantic City to 172 Corp., t/a Fort Pitt Cafe, for premises 170 South New York Avenue, Atlantic City, be and the same is hereby suspended for twenty (20) days, the effective dates of such suspension to be fixed by further order as aforesaid.

JOSEPH P. LORDI
DIRECTOR

STATE OF NEW JERSEY
Department of Law and Public Safety ^{Kremer}
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd., Newark, N.J. 07102

BULLETIN 1685

July 27, 1966

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10. STATE LICENSES - NEW APPLICATION FILED.

New Jersey State Library

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7:00 a.m. Friday, October 14, 1966.

JOSEPH P. LORDI,
DIRECTOR.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against)

Mary Maione)
t/a Jim's Tavern)
Route #130)
Bordentown, N. J.)

Holder of Plenary Retail Consumption)
License C-7, issued by the Township)
Committee of the Township of)
Bordentown.)
-----)

CONCLUSIONS
and
ORDER

James F. McGovern, Jr., Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 20, 1966, she sold mixed drinks of alcoholic beverages to two minors, age 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Licensee has a record of suspension of license by the Director for ten days effective May 31, 1966 (currently in effect and terminating at 2:00 a.m. June 10, 1966) for similar violation. Re Maione, Bulletin 1682, Item 6.

The prior record of suspension for similar violation within the past five years considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Fun Fair Bowl, Bulletin 1625, Item 6.

Accordingly, it is, on this 8th day of June, 1966,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Bordentown to Mary Maione, t/a Jim's Tavern, for premises on Route #130, Bordentown Township, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Friday, June 10, 1966, and terminating at 2:00 a.m. Thursday, June 30, 1966.

JOSEPH P. LORDI,
DIRECTOR.

3. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION.

In the Matter of Disciplinary
Proceedings against)

172 Corp., t/a Fort Pitt Cafe,)
170 South New York Avenue)
Atlantic City, N. J.)

Holder of Plenary Retail Consumption)
License C-40, issued by the Board of)
Commissioners of the City of Atlantic)
City.)
-----)

SUPPLEMENTAL ORDER

Angelo D. Malandra, Esq., Attorney for Licensee
Morton B. Zemel, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

On March 17, 1966, I entered an order herein suspending the current license for twenty days because of the farming out of the 1963-64 and 1964-65 licenses and deferring the effective date of the suspension because it appeared that the licensed business was not then being conducted. Re 172 Corp., Bulletin 1671, Item 9.

Report of recent inspection discloses that the licensed business is now being conducted. Consequently, I am satisfied that the deferred suspension may now be imposed.

Accordingly, it is, on this 9th day of June, 1966,

ORDERED that Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the City of Atlantic City to 172 Corp., t/a Fort Pitt Cafe, for premises 170 South New York Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1966, commencing at 7:00 a.m. Thursday, June 16, 1966; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7:00 a.m. Wednesday, July 6, 1966.

JOSEPH P. LORDI,
DIRECTOR.

4. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT STILL AND EQUIPMENT
ON PREMISES - STILL, EQUIPMENT, ALCOHOL AND MOTOR VEHICLE USED
IN CONNECTION WITH OPERATION ORDERED FORFEITED.

In the Matter of a Seizure on)
April 13, 1966 of a quantity of)
alcoholic beverages, still parts,)
including two pumps, a motor, oil burner,)
copper coil and one 1957 Ford sedan, in)
a 2½ story frame building on Route 54,)
2/10 mile east of Second Road, in the)
Town of Hammonton, County of Atlantic)
and State of New Jersey.)

On Hearing
CONCLUSIONS and ORDER

I. Edward Amada, Esq., Appearing for the Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapters 1 and 2, Revised Statutes of New Jersey and State Regulation No. 28, to determine whether nine containers of alcoholic beverages, still parts, including two pumps, a motor, oil burner and copper coil, and a 1957 Ford sedan, more particularly described in a schedule attached hereto, made part hereof and marked Schedule "A", seized on April 13, 1966 in a 2½ story frame building on Route 54, 2/10 mile east of Second Road, in the Town of Hammonton, Atlantic County, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R.S. 33:1-66 and R.S. 33:2-5, no one appeared to oppose forfeiture of the seized property.

\$3⁵⁰

**vol 6
no 21**

DRAG

**LEGS
'N' LACE:**

**TVs in
Sexy
Poses!**

**The
JEWEL BOX
REVUE & Its
Fabulous Stars**

**News
PLUS**

**10 PAGES of
Classified Ads!**

In Memoriam



Danny Brown

The institution of professional female impersonation lost one of its greatest assets with the passing of the great impressario, Mr. Danny Brown.

Mr. Brown passed away at his home in Hallendale, Florida, which he shared with his mother and lifelong friend, Doc Benner.

Mr. Brown, along with Doc Benner, his partner for over 30 years, were the creators and operators of the world famous Jewel Box Revue.

During its 30 year run, the Jewel Box Revue, was the crown Jewel of female impersonation. It was a splashy Las Vegas style production, consisting in its heyday of a cast of 25 men and one girl.

Actually, theatrics aside, Mr. Brown

did much more than entertainment for the transvestite and homosexual individuals. Beginning in the 40's, when the concept of cross dressing was synonymous with homosexuality in the public eye, he spent many nights in jail and days in court. He personally forced many cities to open their doors to the concept of female impersonation, and had many anti drag statutes removed from the law books in many cities in the US.

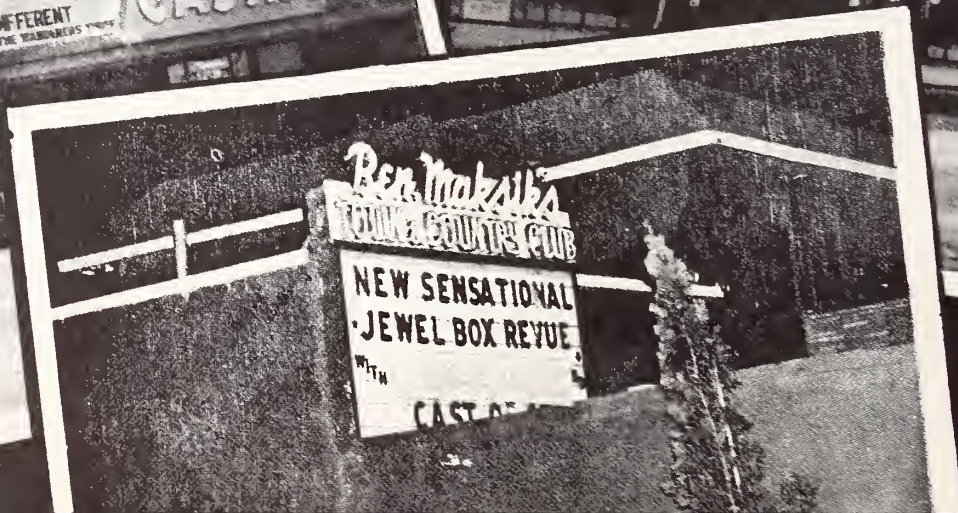
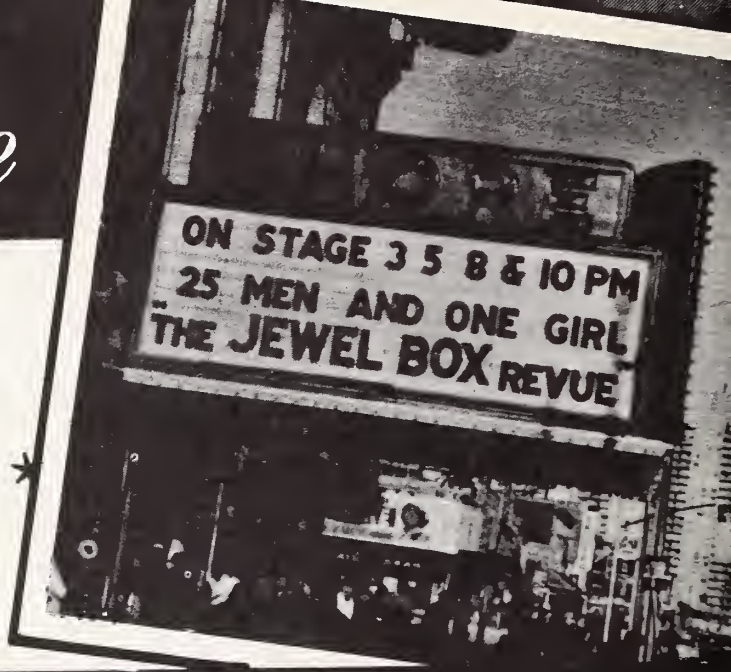
His professionalism, insistence on quality talent, in good taste especially, and his political contributions to our scene, earn Mr. Brown a proud page in the history of Drag.

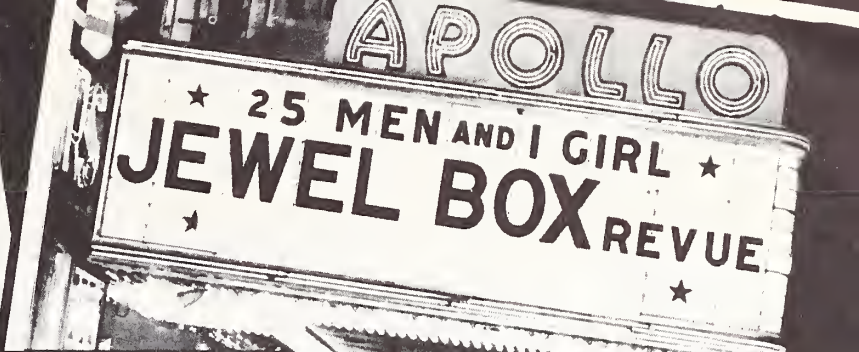
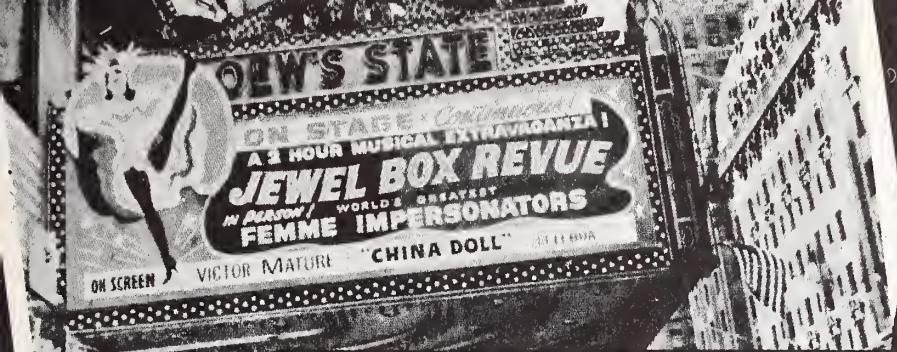
On the following pages we pay our tribute to Mr. Brown by presenting his stars and his productions for one final curtain call.

it's been a pleasure

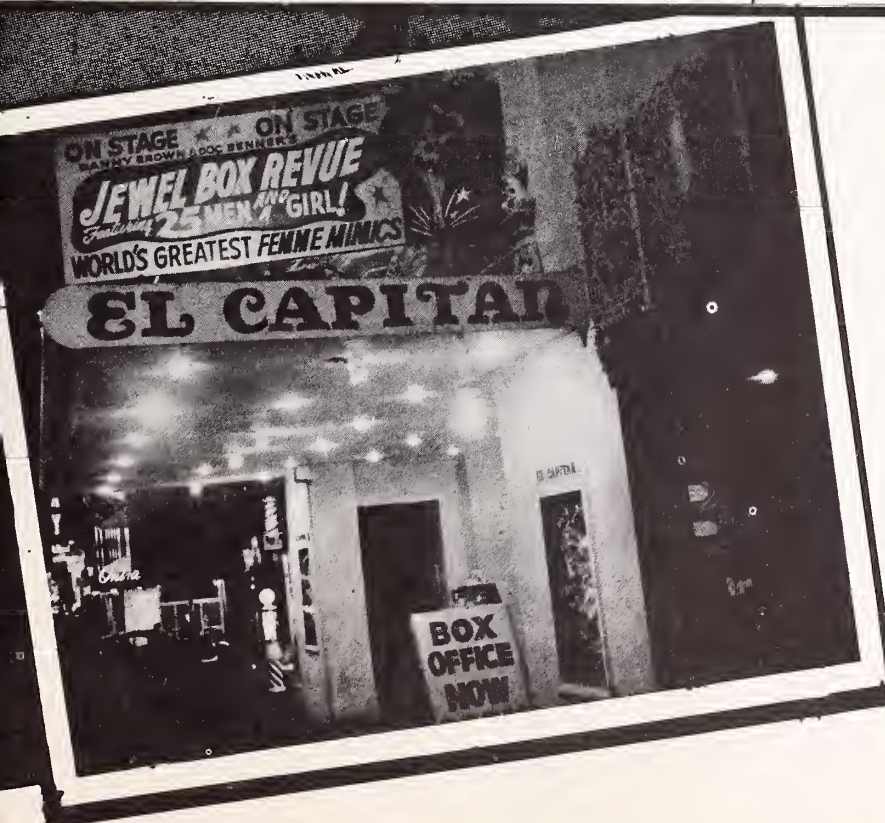
**A
SALUTE
TO**

*the
Jewel Box Revue*





OPENING PRODUCTION, "CAN'T DO A SHOW WITHOUT GIRLS"



We take this opportunity, as part of our obituary on Danny Brown, to show just how great a contribution to the world of Female Impersonation he made. Together with his lifelong partner and mentor, Doc Benner, he was responsible for the rise to fame of such greats of impersonation as T.C. Jones and Lynn Carter, the fabulous Jackie Maye, the exquisite strippers Titanic and Lee Loren, the sensual toe dancers Jan Britton and Toni Lee, the comic zaniness of Billy Austin and Jackie Rose, the perfect impressionists Kit Russell, Billy Daye,



MR. BILLY AUSTIN



MR. DOUG MAGUIRE



ZIEGFELD FOLLIES OPENING



MR. RICKY RENEE



MR. VICI VOGUE



MR. TERRY NOEL



MR. BOB LAKE

BRUNO and MODELS



MR. MICKY LONDON

MR. T. C. JONES



MR. ROBIN ROGERS

MR. CHUNGA OCHOA



MR. JACKIE MAYE



MR. DALE ROBERTS



POOR SUZETTE PRODUCTION



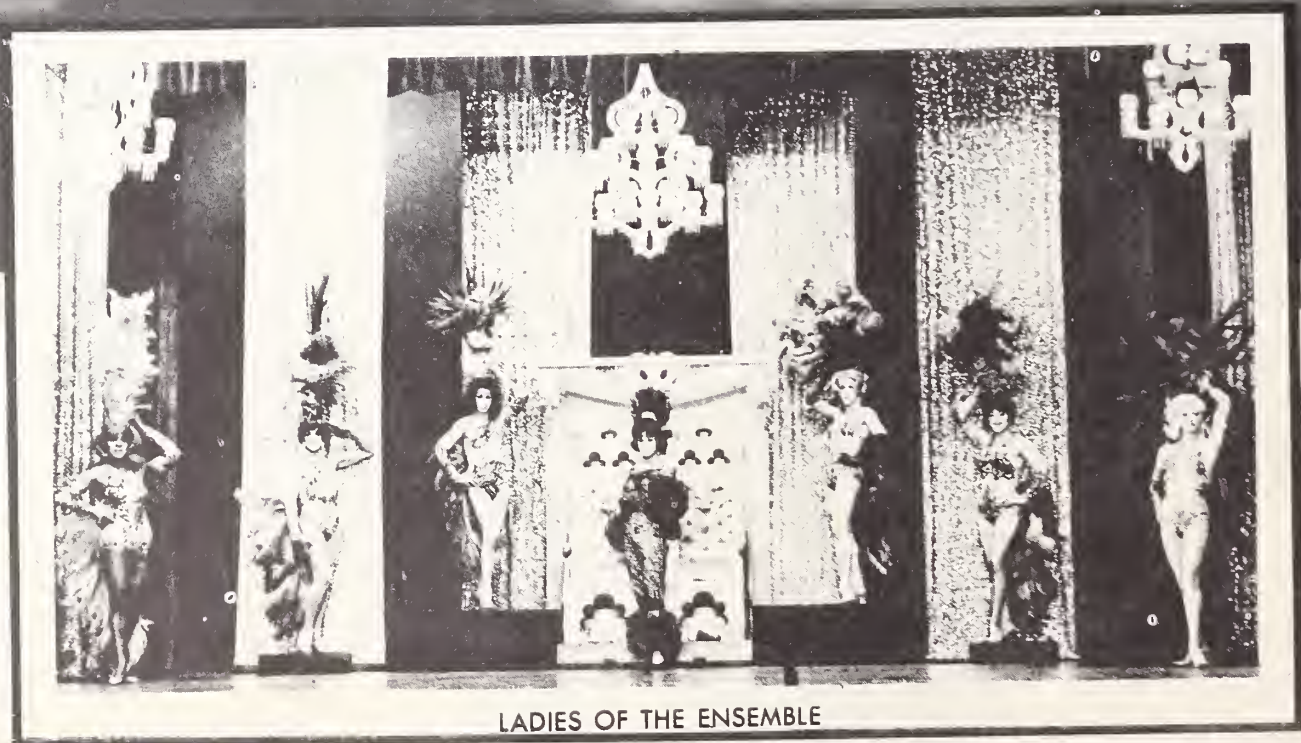
MR. LAVERNE CUMMINGS



MR. KIT RUSSELL

Harvey Lee and Kim August, the sensual novelty dancing of Don Marshall and the beautiful Jimmie Tai, to the legendary glamour of Chris Moore. All owe their success to the creative genius of Doc and Danny.

But more than impersonation, the thing which made the Jewel Box break records-- and pay off the mortgage at several



LADIES OF THE ENSEMBLE



MR. ROBBIN ROGERS



MR. MAL MICHLES IN ZIEGFELD PRODUCTION

niteclubs--was its class. The Jewel Box could have been successful as just a straight show. All the production numbers would have functioned in any revue. The element of female impersonation only made them more unique.

Danny Brown once told us he liked to have quality entertainment, good entertainment and clean fun. It is on record that throughout its history, the Jewel Box was a family show. The cast was under strict orders not to do anything which would jeopard-



WINNING THE WEST MR. ROBBIN ROGERS AS MINNIE



MR. CHRIS MOORE

dize the show's reputation. More than one entertainer was fired for trying to use off-color jokes in the interest of a cheap laugh. Mr. Brown was thus able to keep the calibre of his show on a high level.

MR. DODDIE DANIELS



MR. CHARLIE COX



MR. GENE CHANDLER



MR. MAL MICHLES

MR. TITANIC



MR. JAN BRITTON



MR. HARVEY LEE



TONY LEE



MR. LEE LOREN



MR. BILLY DAYE



Mr. Billy Austin



MR. BRUNO LeFANTASTIQUE



MR. DICK SIMMONS



MR. BOBBIE LA MARR



Mr. Laverne Cummings

In addition to its unique spot acts featuring everything from a talking stomach to impressions of Ethel Merman, the highlights of the show had to be the huge production numbers. Messrs. Benner and Brown thought nothing of condensing a whole opera and using it as a finale number!

Production costumes, for which the show

MR. SANDY ROGERS



MR. RAY FRANCIS



MR. JOHN LONAS



MR. RICKI RAYMOND



became just as famous as the aspect of impersonation, cost up to \$4,000.

We let these pictures speak for themselves, and imagine as you gaze for the last time at the Jewel Box Revue, the booming voice announcing, "and now ladies and gentlemen, It is our pleasure to give, in its showgirl parade, the gentlemen of the Jewel Box Revue".

Thank you Doc and Danny.....!



MR. LESTRA LA MONTE



MR. RICKY PARKER



MR. ROBBY ROSS



BY
BEBE
SCARPIE

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1756

October 6, 1967

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In the Matter of Disciplinary
Proceedings against

CLUB NEW ORLEANS, INC.
t/a Club New Orleans
1223-25 Arctic Avenue
Atlantic City, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-180, issued by the Board
of Commissioners of the City of
Atlantic City.

Lawrence Milton Freed, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on April 14, 1967 it (1) employed a female impersonator as a "go-go girl" entertainer, in violation of Rule 4 of State Regulation No. 20, and (2) employed a minor, age 20, as an entertainer without requisite employment permit, in violation of Rule 3 of State Regulation No. 13.

Absent prior record, the license will be suspended on the first charge for sixty days (Re Talk of the Town, Inc., Bulletin 1614, Item 3; Re Uncle Milt's, Bulletin 1501, Item 5) and on the second charge for five days (Re Rodriguez, Bulletin 1739, Item 3), or a total of sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days.

Accordingly, it is, on this 7th day of August 1967,

ORDERED that Plenary Retail Consumption License C-180, issued by the Board of Commissioners of the City of Atlantic City to Club New Orleans, Inc., t/a Club New Orleans, for premises 1223-25 Arctic Avenue, Atlantic City, be and the same is hereby suspended for sixty (60) days, commencing at 7 a.m. Monday, August 14, 1967, and terminating at 7 a.m. Friday, October 13, 1967.

JOSEPH P. LORDI
DIRECTOR

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1763

November 29, 1967

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 FOR 150 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

800 N. MASSACHUSETTS, INC.)
 t/a The Jet Set Bar & Lounge)
 15-17 North Illinois Avenue)
 Atlantic City, N. J.)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption)
 License C-139, issued by the Board)
 of Commissioners of the City of)
 Atlantic City.)

 Edward I. Feinberg, Esq., Attorney for Licensee.
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to charges alleging that on May 28, 1967 it (1) permitted solicitation for prostitution on the licensed premises, in violation of Rule 5 of State Regulation No. 20, and (2) conducted the licensed place of business as a nuisance, viz., permitting apparent male and female homosexuals on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Reports of investigation disclose that on the date alleged, of a total patronage of approximately fifty about one-third were apparent homosexuals.

Absent prior record, the license will be suspended on the first charge for ninety days (Re Rocky Birch, Inc., Bulletin 1724, Item 2) and on the second charge for sixty days (Re Paul's Shore Liquors, Inc., Bulletin 1721, Item 1), or a total of one hundred fifty days, with remission of five days for the plea entered, leaving a net suspension of one hundred forty-five days.

Accordingly, it is, on this 20th day of September 1967,

ORDERED that Plenary Retail Consumption License C-139, issued by the Board of Commissioners of the City of Atlantic City to 800 N. Massachusetts, Inc., t/a The Jet Set Bar & Lounge, for premises 15-17 North Illinois Avenue, Atlantic City, be and the same is hereby suspended for one hundred forty-five (145) days, commencing at 7 a.m. Wednesday, September 27, 1967, and terminating at 7 a.m. Monday, February 19, 1968.

JOSEPH P. LORDI
 DIRECTOR

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

May 6, 1970

BULLETIN 1907

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New Jersey State Library

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In the Matter of Disciplinary)
 Proceedings against)

Perrig, Inc.)
 t/a Paddock International)
 1643 Atlantic Avenue)
 Atlantic City, N.J.,)

Holder of Plenary Retail Consump-)
 tion License C-188 (for the 1968-69)
 licensing year) and C-182 (for the)
 1969-70 licensing year), issued by)
 the Board of Commissioners of the)
 City of Atlantic City)
 -----)

In the Matter of Disciplinary)
 Proceedings against)

Roydave Enterprises)
 t/a Fort Pitt Cafe)
 170 S. New York Avenue)
 Atlantic City, N.J.,)

Holder of Plenary Retail Consump-)
 tion License C-35, issued by the)
 Board of Commissioners of the)
 City of Atlantic City)
 -----)

In the Matter of Disciplinary)
 Proceedings against)

Friendship House, Inc.)
 t/a The President of Atlantic City)
 Albany Avenue & Boardwalk)
 Atlantic City, N.J.,)

Holder of Plenary Retail Consumption)
 License C-194 issued by the Board of)
 Commissioners of the City of Atlantic)
 City; transferred during the pendency)
 of these proceedings to)

South Albany Avenue Corp.)
 (for the same premises))
 -----)

Edwin H. Helfant, Esq., Attorney for Perrig, Inc., and Roydave)
 Enterprises)
 Roy Baylinson, Esq., Attorney for Friendship House, Inc.)
 Edward F. Ambrose, Esq., Appearing for Division.)

CONCLUSIONS
 and
 ORDER

A single Hearer's report is herewith submitted with respect to charges preferred against the above named licensees since they involve a common question of law and are based upon stipulation of facts.

The licensees have entered pleas of not guilty to the following:

Perrig, Inc., t/a Paddock International was charged in three separate counts, that on June 5, June 13, June 14, July 18 and July 24, 1969 it allowed, permitted and suffered female impersonators in and upon its licensed premises, viz., a group of males attired as females who performed on stage for the entertainment of its customers and patrons in violation of Rule 4 of State Regulation No. 20.

Roydave Enterprises, t/a Fort Pitt Cafe was charged with a similar violation on July 19 and July 25, 1969.

Friendship House, Inc., t/a The President of Atlantic City (transferred during the pendency of these proceedings to South Albany Avenue Corp.) was charged with a similar violation on two separate counts occurring on July 18 and July 24, 1969.

It was stipulated that the licensees permitted professional male entertainers dressed as females upon the licensed premises. Each of the licensees was operating a night club during the dates alleged herein and the entertainers of the first two licensees were personnel of two well known packaged song, dance and comedy revues known as "Vive Les Boys" and "The Fantastiks."

With respect to Friendship House, Inc., t/a The President of Atlantic City, the entertainers were personnel of a famous packaged song, dance and comedy revue billed as "The Jewel Box Revue."

Each revue featured men dressed and made up as women, singing, dancing and speaking, using lavish sets, costumes and lighting. No allegation is made that these revues were objectionable, immoral or indecent, other than the fact that the male entertainers were dressed as females.

The licensees did not permit the entertainers to mingle with their customers or patronize the premises and restricted the entertainers' presence upon their premises to "show-connected" activities.

These citations are based upon the alleged violation of Rule 4 of State Regulation No. 20, which reads in pertinent part as follows:

"No licensee shall allow, permit or suffer in or upon the licensed premises any prostitute, female impersonator, pickpocket, swindler, confidence man, or any notorious criminal, gangster, racketeer, or other person of ill repute;..."

Rule 4 was one of the early regulations promulgated by the then Director in 1934. Apparently the Division considered that the effeminate manifestations of the patrons brought them within the prohibition of "female impersonators", although that term relates more properly to transvestites who are, for the most part, said to be non-homosexuals. Re M. Potter, Inc., Bulletin 474, Item 1. In that matter the acting commissioner said that the mere "presence of female impersonators in and upon licensed premises presents a definite social problem"; and in line with the widespread intolerance and limited public understanding of the subject he made reference to "the deep-rooted personal contempt felt by a normal red-blooded man" and to the notion that "the mere thought of such perverts is repugnant to the normal person."

In memoranda submitted by the attorneys for the licensees it was pointed out that there has been an increased public tolerance and understanding with respect to so-called female impersonators and apparent homosexuals. It was noted that some of the more popular television programs feature chorus lines of men attired as females and some of our leading comedians have female impersonation routines.

These charges cannot be sustained because of the recent holding in One Eleven Wines & Liquors, Inc., v. Division of Alcoholic Beverage Control, et al., 50 N.J. 329 (1967). In this matter, which involved three licensees in three separate proceedings (decided in the same opinion by the New Jersey Supreme Court), this Division disciplined these licensees for permitting apparent homosexuals to congregate at bars. The licensees appealed to the Appellate Division. The Appellate Division on one of the appeals sustained the suspension of the license, and the Supreme Court granted certification of the licensee's application. The Supreme Court also certified on its own motion appeals which had been duly taken to the Appellate Division by other licensees.

It held that this Division was not justified in suspending or revoking licenses because apparent homosexuals were permitted to congregate at bars. Speaking for the Court, Justice Jacobs carefully examined the genesis of Rules 4 and 5 of State Regulation No. 20. He pointed out that in the earlier decisions the Director entertained the view that, since homosexuals might be harmful to "some members of the public", the congregating of homosexuals must be prohibited as a "threat to the safety and morals of the public." Citing Paddock Bar, Inc., v. Alcoholic Beverage Control Div'n, 46 N.J. Super. 405, 408 (App. Div. 1957).

In one of the companion cases, joined in the One Eleven Wines & Liquors, Inc., decision, (Murphy's Tavern, Inc., v. Division of Alcoholic Beverage Control) the Director held that the mere congregation of apparent homosexuals, without more, is violative of Rule 5. (Rule 5 concerns itself with permitting lewdness, immoral activity or conduct upon licensed premises.) The charge did not allege any immoral activity or lewdness itself, but simply asserted that the licensees permitted the premises to be operated as a nuisance because of such congregation of these persons.

In the One Eleven Wines & Liquors, Inc., proceedings, there was no evidence that lewdness or immoral conduct was permitted at the licensed premises. The same situation prevailed with Val's Bar, Inc., the third companion case. In One Eleven Wines & Liquors, Inc., the Division concluded that the mere congregating of apparent homosexuals in taverns is contrary to the public welfare and may therefore reasonably be prohibited under its wide policy powers, citing Jeanne's Enterprises, Inc. v. State of N.J., etc., 93 N.J. Super. p. 232. The Division argued that it has consistently tried "to increase public respect and confidence in the liquor industry" cf. X-L Liquors v. Taylor, 17 N.J. 444, 451 (1955) and suggested that permitting the congregation of apparent homosexuals, even though carefully supervised, would impair such public respect and confidence.

The Supreme Court disagreed, and stated that in this day and age "it is entirely appropriate that full sweep be given to current understandings and concepts. Under them it seems clear that, so long as the division can deal effectively with the matter through lesser regulations which do not impair the rights of well behaved apparent homosexuals to patronize and meet in licensed premises, it should do so. Such narrower course would be consonant with the settled and just principle that restrictions adopted in the exercise of

police powers must be reasonable and not go beyond the public need." One Eleven Wines & Liquors, Inc. v. Division of Alcoholic Beverage Control, *supra*, 50 N.J. p. 341.

I find that, since the Superior Court has taken this position with respect to the congregation of apparent homosexuals, it is forcefully applicable to the congregation of female impersonators. What is even more significant, however, is that according to the stipulation of facts, these female impersonators were professional entertainers contracted for from well known National agencies who did not mingle with the patrons and performed limited services.

It is ludicrous to consider such professional entertainers, who, as heretofore noted, are usually transvestites, within the definitive context of prostitutes, pickpockets, swindlers, confidence men, criminals, gangsters or racketeers, enjoined from congregating in licensed premises by Rule 4. Indeed, a group of such entertainers can hardly be considered as congregating, where they are engaged in such capacity.

It was specifically stipulated that their entertainment comported to good conduct and was in no way objectionable, lewd or immoral. If, on the other hand, their entertainment degenerated to the point where specific charges of improper conduct could be established and sustained, the licensees would have to bear the brunt of their comprehensive responsibilities at the peril of their licenses.

It is, therefore, recommended that the licensees herein be found not guilty of the said charges, and that the said charges be dismissed.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulations No. 16.

After carefully considering the record and the written memoranda filed by the attorneys for the licensees, I concur in the findings of the Hearer and adopt them as my conclusions herein. Hence I find the licensees not guilty.

Accordingly, it is, on this 7th day of April 1970,

ORDERED that the charges against each of the licensees herein be and the same are hereby dismissed.

Richard C. McDonough,
Director.



STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd., Newark, N.J. 07102

BULLETIN 1916

July 9, 1970

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In the Matter of Disciplinary)
 Proceedings against)

Ceill's Ltd.)
 t/a Ceill's Saratoga)
 203-205 South New York Avenue)
 Atlantic City, N. J.,)

CONCLUSIONS
 and
 ORDER

Holder of Plenary Retail Consumption)
 License C-102, issued by the Board
 of Commissioners of the City of)
 Atlantic City.)

- - - - -)
 Blatt, Blatt & Consalvo, Esqs., by Martin L. Blatt, Esq.,
 Attorneys for Licensee
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"During the early morning hours of Saturday, June 21, 1969, you allowed, permitted and suffered lewdness, immoral activity and foul, filthy, indecent and obscene conduct by male and female customers and/ or patrons in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

The Division bottomed its case upon the testimony of ABC agents C and D, who were specifically assigned to the investigation of alleged misconduct of patrons at the licensed premises. They gave the following account:

On Saturday, June 21, 1969 at approximately 2:20 a.m., accompanied by three other ABC agents, they entered the premises and seated themselves at the bar. At that time there were approximately fifty male and six female patrons, all of whom attracted the attention of these agents because most of the males were apparent homosexuals and the females were apparent lesbians. The patrons were generally paired up as couples male with male, female with female.

Several of the couples occupied the same stool; that is, one would be seated on the lap of the other. It was clear to the agents that this was obviously a "gay" bar, catering to this type of patronage, and that there were few, if any, patrons other than apparent homosexuals and lesbians. The male couples at the bar usually had their arms about each other, kissing and petting on the neck and freely touching each other's "buttocks and privates." This type of petting on the privates and stomach area and the buttocks characterized the behavior of many of the couples during the entire period of this visit.

There was a band playing, and about five of the couples, male with male and female with female, were dancing. As they danced, they held their arms tightly wrapped about each other, petted and fondled the buttocks and back of the neck and hair.

Several of the couples freely engaged in kissing and "actually exchanged their tongues in each other's mouth." The number of couples on the floor varied from three couples to five couples during the period of the agents' visit.

Agent C called the attention of the bartender to the intimate dancing and activity of a particular couple on the dance floor, and commented, "Boy! They really have it bad for each other!"; the bartender replied "Oh, yes. They are having fun."

The couples danced to slow music and rubbed their bodies against each other, and continued to pet and caress as hereinabove described. After they completed the dancing the couples returned to the bar and continued to kiss and caress all parts of the body, the thighs, buttocks and privates of their partners.

The nature of the caressing and petting was the same with respect to both the male and female couples. They accentuated their motions by being very close to one another "They rubbed, you know, kind of gyrated against each other." One female couple at the bar was engaged in petting and kissing on the neck; their arms around each other's waists; and one female reached her hand inside the other's blouse and fondled her breast while she was kissing her on the neck. This was done right in the presence of one of the bartenders. He made no attempt to interfere with any of this activity.

About 3:15 a.m. the agents identified themselves to Norman Sidlow, the president of the corporate license who ushered them into the kitchen of the restaurant. Sidlow asserted that this was a "gay" bar and he felt that it was better to keep it confined to this type of patronage. Sidlow insisted, however, that he did not observe the kissing or the activities as hereinabove delineated. When it was pointed out to him that numerous couples were standing along the wall and along the bar embracing, petting each other on the privates and thighs, he denied witnessing any such activity.

Norman Sidlow, testifying in behalf of the licensee stated that the stage area where the go-go dancer performs is illuminated by two spotlights but that there are no lights in the barroom except for a small light on the register and one in the window. There is also a small light on the juke box.

He insisted that there were only two or three couples on the dance floor at any one time. Further, a go-go boy performed for the patrons, and his performance lasted about an hour.

He stated that the usual dance numbers were fast numbers, that when a slow number was played on the juke box only one couple was on the floor. He described the patrons as being well-behaved, very quiet and "I didn't see anything wrong." He denied that there was any kissing, petting and any lewd activity. He also denied that two people occupied the same seat, or that any one sat on the lap of his or her companion.

On cross examination, Sidlow asserted that if he were at the door when the agents sought to enter the premises he would have denied them admittance because, as he stated to them:

"Most of our clientele is mostly gay kids. I try to keep out all the straight people I can because I don't want trouble. I think I never had trouble. And if I seen you coming in I wouldn't let you in until I seen identification."

He admitted that all of the patrons of this establishment were "gay" and that he has operated this type of facility for a number of years. However, he insisted that he did not permit any lewd or indecent activity and if he does observe the same he would put them out. He admitted, however, he did not, nor did his bartenders, put anyone out on this date. Furthermore, he questioned the bartenders and they denied that there was any indecent activity taking place on this occasion.

James Dansey, who was employed as a bartender on the night in question, testified that the go-go boy was performing some time between 2:00 and 4:00 a.m. and his performance usually takes about forty to fifty minutes. He stated that there were about thirty to fifty patrons on this date and that they were well behaved. He readily admitted that Agent C pointed out two males dancing with each other and said to him "There are two guys over there really like each other." He replied "It is possible." He admitted that he did observe couples kissing each other but, if there was any "soul kissing", that would be reason for putting them out. However, he did not observe any such action on this night nor did he have any occasion to put anyone out.

On cross examination he admitted that when he was employed elsewhere as a teacher he usually patronized this type of establishment and socialized with some of the patrons.

Finally he admitted that he had specific instructions to use his judgment, and if he felt that the patrons were getting "a little too out of hand to flag them." He didn't mind if the patrons had their arms about each other, but if they engaged in rubbing each other's private parts and similar activity he would stop it. However no such activity took place on these premises. Finally, he insisted that if he saw two males or two females dancing closely with their arms wrapped around each other, that he didn't think this was a reason for interfering.

In adjudicating this matter, I am guided by the long established principle that disciplinary proceedings against liquor licensees are civil in nature, and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud v. Davis, 64 N.J. Super. 242 (App. Div. 1960).

In assessing the testimony given herein, I have had an opportunity to observe the demeanor of the witnesses as they testified. Testimony, to be believed, must not only proceed from the mouths of credible witnesses but must be credible in itself. It must be such as the common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954).

I find, from my evaluation of the testimony, that the account given by the Division witnesses accurately, factually and credibly substantiated this charge. It is clear that these agents pursued this investigation upon a specific assignment, and there is no suggestion in the record that they had any preconceived prejudice against the licensee. On the other hand, I disbelieve and find incredible the testimony of the witnesses for the licensee, who claimed that there was no misconduct or unusual behavior on the part of the patrons or customers.

It should be stated clearly that the licensee is not being charged with permitting, allowing or suffering the congregation of male homosexuals or lesbians on the licensed premises. This Division recognizes the impact of One Eleven Wines & Liquors, Inc. v. Div. Alcoholic Bev. Cont., 50 N.J. 329 (1967) which held

in effect that the "mere, though open congregation of homosexuals at the licensed premises" forms no basis for a charge against them. Said the court:

"So long as their public behavior violates no legal proscriptions they have the undoubted right to congregate in public. And so long as their public behavior conforms with currently acceptable standards of decency and morality, they may, at least in the present context, be viewed as having the equal right to congregate within licensed establishments such as taverns, restaurants and the like." (50 N.J. at p. 339)

Thus well-behaved, apparent homosexuals and lesbians have the equal right to patronize and meet in these premises as would any other patrons. However, the fact that they have equal rights does not make them more equal than other patrons; they are equally proscribed from engaging in overtly indecent conduct and public displays of sexual desires manifestly offensive to currently acceptable standards of propriety and decency.

The charge made against this licensee was made under Rule 5 of State Regulation No. 20 and specifically cites the licensee for allowing, permitting and suffering lewdness, immoral activity and foul, filthy, indecent and obscene conduct in and upon its licensed premises. Although these premises admittedly cater almost exclusively to a "gay" crowd, nowhere within the four corners of the charge is there any specification of the nature of the patronage. Therefore, the critical issue is whether these patrons, regardless of whether they were heterosexual or apparently homosexual, conducted themselves in such manner as to constitute a violation of the aforementioned regulation.

As above stated, I find from the testimony that the behavior of these patrons was such as to be violative of the subject regulation. It would seem to me that, where a licensee admittedly caters to this type of clientele, it should be particularly sensitive to the conduct of its patrons. Although it has no special obligation, it nevertheless cannot use less diligence than that required by all who must bear the burden of less comprehensive responsibility under the Alcoholic Beverage Control law and the Rules and Regulations of this Division.

It is no answer to this charge that Sidlow or his bartenders did not see the conduct or the specific acts of the patrons as delineated in considerable detail by the ABC agents. It has been consistently held that the licensee and its agents are not only expected to regulate the activity on licensed premises but must use their eyes and ears and must use them effectively to prevent the improper use of licensed premises. Re Schuyler, Bulletin 1787, Item 1; Re Ehrlich, Bulletin 1441, Item 5. A tavern should not provide an arena for the behavior disclosed by the record. See concurring opinion in One Eleven Wines & Liquors Inc. v. Div. Alcoholic Bev. Cont., supra (50 N.J. at p. 342, 343).

After carefully considering the totality of the record herein, the conclusion is inescapable that the said charge has been established by a preponderance of credible evidence. It is, therefore, recommended that the licensee be found guilty of said charge.

Licensee has no prior adjudicated record of suspension of license.

It is, further, recommended that this license be suspended for forty-five (45) days, Re Toth, Bulletin 1356, Item 4.

Conclusions and Order

Written exceptions to the Hearer's report were filed by the attorney for the licensee pursuant to Rule 6 of State Regulation No. 16.

I have noted the comments in the said exceptions and find that the exceptions have either been considered in the Hearer's report or are lacking in merit.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 20th day of May 1970,

ORDERED that Plenary Retail Consumption License C-102, issued by the Board of Commissioners of the City of Atlantic City to Ceil's Ltd., t/a Ceil's Saratoga, for premises 203-205 South New York Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1970, commencing at 7 a.m. Tuesday, June 2, 1970; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7 a.m. Friday, July 17, 1970.

Richard C. McDonough
Director

8. DISCIPLINARY PROCEEDINGS - GAMBLING (SLOT MACHINES) - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Tadeusz Kosciuszko Club, Inc.
State Highway & York St.
Burlington City, N. J.,

CONCLUSIONS
and
ORDER

Holder of Club License CB-12, issued
by the City Council of the City of
Burlington

Licensee, by Hugh E. Murray, Secretary, Pro se.
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on February 20, 1970, it permitted the playing for stakes of money (gambling) on and possessed two devices in the nature of slot machines, on the licensed premises, in violation of Rules 7 and 8 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Point Pleasant Lodge #1549 Loyal Order of Moose, Bulletin 1719, Item 11.

